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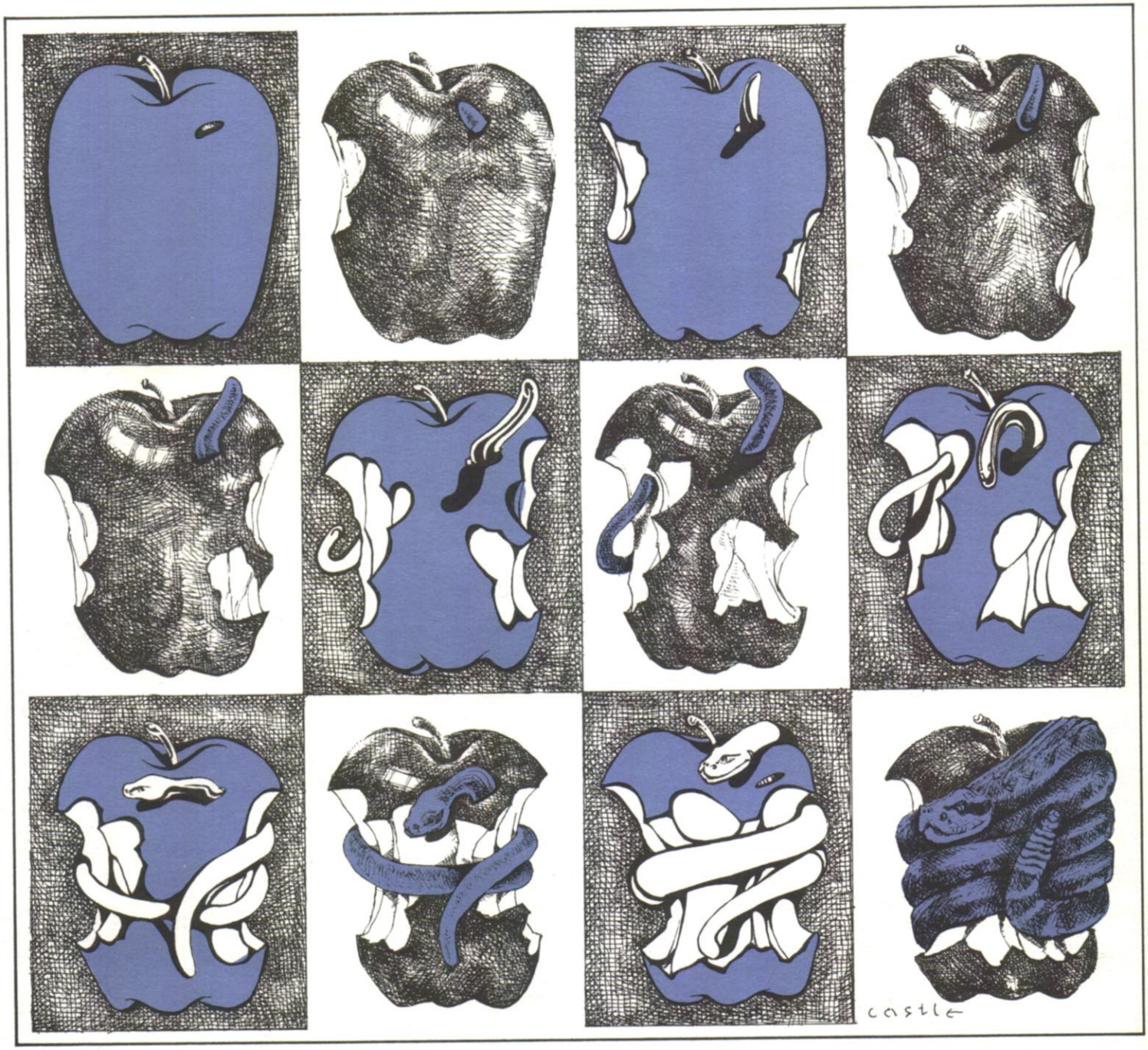
California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS

WHAT'S WRONG WITH OUR SCHOOLS? WHAT CAN BE DONE TO IMPROVE THEM?



THE POLITICS OF THE SAN DIEGO PLANE CRASH

SPECIAL INSERT: THE FIRST ISSUE OF A NEW PUBLICATION

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Personal

PERSPECTIVE

By Ed Salzman

John Q. None

They had an election in Nevada this year — and nobody won.

The voters in our neighboring state simply decided that they didn't like any of the four candidates running for an office and gave a plurality of their votes to the fifth line on the ballot — "None of the above."

How unfortunate that Californians didn't have the same opportunity this year. Chances are that both Jerry Brown and Evelle Younger would have been rejected in favor of a new election. The polls indicated that the voters weren't particularly enthralled with either candidate. What would happen if California law required a second election? The outcome would be impossible to predict, but the electorate would probably prefer a choice between, say, a Pat Brown and a Mildred Younger.

Too often the voters head for the polls holding their noses and preparing to vote for the lesser of two evils. That may be one of the reasons why the public is so disgusted with politicians and government, and why so few citizens go to the polls. Perhaps incumbents are re-elected with great frequency because the voters prefer the known to the unknown — even though they don't like either candidate.

The none-of-the-above movement has never been taken seriously in California, even though it has been trumpeted by a few radio talk-show hosts, including Jim Eason of KGO in San Francisco. But maybe the notion can now be marketed in this era of bad feeling about government. Nevada has proved that the extra line on the ballot won't be ignored. And the public conception of the caliber of candidates this year has indicated a need for it in California.

The main problem with a victory for none-of-the-above is the scheduling of a replacement election. And it is entirely possible that all candidates would be rejected on the second ballot, the third, fourth, etc. In that case, the office might go unfilled for a while. But, in a democratic system, shouldn't the voters be able to choose someone they like to fill an office rather than be forced to choose between candidates they don't like?

Under a none-of-the-above system, the entire election calendar would probably have to be changed. That's because the rejection of all candidates for an office would then necessitate two elections — a new primary and a new general. That could be a plus because it would force a reduction in the campaign period, which now runs five months from primary to general.

One of the most appealing aspects of the none-of-the-above plan is that some offices might remain vacant for an extensive period of time. What would happen then? In most cases, the bureaucracy would keep running just as though all bosses had been elected. In some cases, it might be proved conclusively that Californians don't need all the elected offices now ingrained in our system. If we hadn't had a secretary of state or a Board of Equalization, for example, for the past four years, would anybody really have noticed?

California Journal

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Without comment, from publisher Malcolm S. Forbes' column in *Forbes* magazine: *California's only contributions to dining are the frozen fork and the salad bar. And it would take a zealot for what's contradictorily dubbed California "lifestyle" to term those things contradictions.*

"Prop. 13 clones" — that's what some folks have been calling the tax-cut and spending-limitation measures that have sprung up across the country. In fact, California was far from the first state to enact measures cutting taxes.

Republican strategists this year engineered some "sneak attacks" on Democratic Assembly members considered safe for many years. Among the targets was Vincent Thomas of San Pedro, senior member of the Legislature. The GOP came to the conclusion that most people in the San Pedro area thought Vincent Thomas was a bridge (which it is) and not a human being.

There isn't the slightest hint that Leo McCarthy is about to lose the Assembly speakership. But a speakership contest is already under way in the Assembly under the assumption that McCarthy will run for governor in 1982 and that his powerful post will be up for grabs early that year.

Latest member of the *Los Angeles Times'* Sacramento bureau: Carl Ingram, long-time Capitol bureau chief for United Press International.

Journal reader Anne Abeel reports that in Sacramento restaurants frequented by the political crowd bus boys are now referring to themselves as "table technicians."

Results of the Spiro T. Agnew Nabob Club's 1978 media assessment competition: Most improved political campaign coverage, to the *San Francisco Chronicle.* Least improved coverage, to any television station of your choice.

How British writer Peregrine Worsthorne assesses the Proposition 13 phenomenon in California: "Surfeit is the problem in California, not scarcity. People are sickened by the spectacle of absurd over-expenditure and the body politic is suffering from the pains, not of hunger, but of indigestion."

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FREE SAMPLE COPY

This issue contains the first edition of a national monthly newsletter, Tax Revolt Digest. *The* Digest *is produced by the California Center for Research and Education in Government, publishers of* California Journal. *For subscription information and a sample of the* Digest's *offerings, look inside.*

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WHAT'S WRONG WITH OUR PUBLIC SCHOOLS?

AND WHAT CAN WE DO TO MAKE THEM BETTER?

By ANNIE NAKAO

• ***At the University of California,*** which takes only the top 12 and 1/2 percent of the state's high-school students, English achievement scores of entering freshmen have again dropped. At UC Berkeley, one of the system's top campuses, nearly one-third of the entering freshmen must take a "bonehead" English course.

• ***A textbook salesman*** — one who deals primarily with the California Community Colleges (which enrolls 77 percent of the state's recent high-school graduates within the public higher education sector) — says he would have been "laughed out of the place" ten years ago for selling the kinds of books he sells now. Rich Dunfey, of Prindle, Weber and Schmidt Publishers, says many math books he sells are at the seventh grade level. "I've had professors tell me, 'When you get one at the fourth grade level — let me know.' "

• ***At the Metropolitan Life Insurance Company*** in San Francisco, personnel officers complain of recently hired high-school graduates who can't alphabetize correctly or write understandable letters. Don Malone, personnel services manager, recalls one graduate who wrote a letter of resignation: "The supervisor had to rewrite it because we couldn't understand it."

From the Berkeley liberal arts major to the entry-level insurance clerk, these young adults represent the vast ranks of some 260,000 high-school seniors who graduate each year from the public schools. And the state of their schooling does not offer an encouraging picture.

"We have to train them to do the most basic things — the kinds of skills you'd expect them to have as high-school graduates," complains one executive.

One doesn't have to look beyond the high schools to see the evidence of declining basic skills. In many English departments at the secondary level, up to one-third of the course offerings are remedial classes. "The kids can't even read the books at times," complains one English teacher.

Annie Nakao is the education writer for the San Francisco Examiner.

Last year, achievement test scores for the state's twelfth graders again dipped far below the national average. The seniors' reading scores dropped from the 42nd to the 41st percentile, while writing and math scores slipped one percentile point each — to the 33rd and 32nd percentile respectively. (A simulated national average is at the 50th percentile.)

Alexander Law, chief of the program evaluation unit of the State Department of Education, says the twelfth-grade drop is part of a nationwide decline in high school achievement scores. The drop also parallels the 14-year national decline in Scholastic Aptitude Test scores. Since 1963, verbal scores on the SAT, which seniors take to enter college, have skidded down from 478 to 429 (on a scale of 200 to 800), while math scores have dropped from 498 to 470. Recent reports show the verbal score has stabilized, while the math score dropped two points this year.

One bright spot

Just about the only bright spot in the dismal statewide picture are the scores of second and third graders, which have continued a steady, 11-year climb. Test scores for sixth graders have remained at the national average. Although the rising scores at the earlier grade levels are encouraging, they do not compensate for the plummeting scores of high-school seniors. And increasingly, the public is asking just why these students — the products of more than a decade of public education — are making such a miserable showing.

"I think you could describe it as a fairly generalized state of unhappiness," says Myron Puckett, director of the San Francisco Center for Public Education. "People read about the declining scores, the vandalism and the lack of discipline — and that becomes translated into an uneasiness about the schools," he said.

The extent of disillusionment with public schools is apparent in recent election results. Since 1967, the number of successful school bond issues — which require a two-thirds majority — dropped from 50 to 25 percent. Since 1973, the percentage of successful efforts to increase school tax rates

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or revenue limits has slipped from 55 to 45 percent. And the last two statewide school bond measures failed to get a simple majority.

When Proposition 13 passed overwhelmingly last June, school officials contended that the voters didn't mean to dismantle the schools. The public simply wanted to send a message to Sacramento to cut the fat from government bureaucracies, school leaders said. But there is no question that the schools represent one of the largest and most expensive bureaucracies within government. Although statewide enrollments dropped by almost 300,000 students between 1971 and 1976, the number of teachers and administrators went up. The schools are the state's largest employer, with some 360,000 workers, roughly four percent of the state's total labor force.

It costs nearly $8 billion to educate California's 4 million youngsters in grades kindergarten through 12th. Fifty percent of those funds came from property taxes prior to Proposition 13. As a result of Jarvis-Gann, school districts lost about $3 billion; now most of their money comes from the state.

Willing to pay

Between 1967 and 1976, public school expenditures rose 114 percent — outstripping the 98 percent hike in personal income of all Californians and the 60 percent hike in the consumer price index. On the average, California spends $1,400 per student per year for education. What it gets back for that amount isn't certain.

"In the public perception, the assumption is that not only have the costs of schools gone up, but that they're not getting what they're paying for," says John Mockler, Los Angeles city schools' budget analyst and state school finance expert. "Taxes are the only prices people can vote on — they can't vote on the price of bread or meat. Maybe they'd be more willing to pay if they thought all the services they're getting are of the highest quality for that price."

Whatever the intent of the voters last June, the fact is that school district budgets have been trimmed by an average of ten percent as a result of Proposition 13. Some districts such as San Francisco suffered a 15 percent loss because they are considered "high-wealth" districts. While the cuts this year were minimal because of the state's $2 billion bail-out, parents and students are already feeling their effects in reduced transportation, limited athletic programs, fewer reading specialists and even, in some cases, the closing of schools. Such dislocations have undoubtedly further undermined confidence in the schools.

Some basic problems

How did the public school system get into such dire straits? Certainly, some causes are directly attributable to recent educational trends: grade inflation, the reduction in basic course requirements and the proliferation of electives, social promotions, less homework and easier textbooks. Many of these causes were cited by a national blue-ribbon panel to explain why SAT College Board scores have declined in the past 14 years. The panel also offered other "pervasive" causes for the decline: the effects of television, less reading, the higher instances of broken homes and a general lowering of student motivation due to societal causes, such as the turbulence of the '60s. In addition, panelists found that the increased educational opportunities of the '60s tended to lower SAT scores, since larger numbers of disadvantaged students who had not previously gone to college were now taking the test.

Educators offer many of the same explanations for the problems of the public schools. Larger numbers of less motivated youngsters are now staying in school because of expanded educational opportunities at the college level. In the past, these students would have tended to drop out.

Changing student population is another factor. Large urban districts are gradually developing a "majority of minorities." Because of disadvantaged socio-economic backgrounds, many of these youngsters tend to have educational handicaps. Cities also have large numbers of immigrant populations, meaning more language-handicapped youngsters.

"Our whole society is changing," says Law, of the State Department of Education. "When these school critics were in the system, schools were still primarily rural, stable and white. Where can you find that today?"

Law further contends that the tests themselves do not necessarily measure what today's students know. "So a kid comes to the first grade after having watched 5,000 hours of TV. He's learned a lot — but it may not be measurable in a superficial test."

'Show me'

While most officials concede that achievement levels have slipped in the last decade, they point out that student achievement can be raised only if the home goes in the same direction as the school. "How many parents and kids still think of public education as an opportunity?" asks state Senator Arlen Gregorio. "I'm really troubled when I see kids with folded arms, as if to say, 'Show me.' Unless a teacher is not only qualified in the subject matter, but adept at being an entertainer, they don't have a chance."

Those who defend public education say too much has been dumped on the schools. In the last ten years, schools have been asked to accomplish what no one else could do: to integrate society. In addition, they have been asked to provide bilingual and adult education, to care for pre-schoolers and to teach youngsters to drive, sew and swim. Above all, they were expected to teach kids to read and write. When it became apparent that the schools were doing none of these things very well, public disenchantment began growing in earnest.

A concrete example of this disaffection is the flight to private schools. Since 1973, private-school enrollments have increased by three percent annually, while public school enrollments continue to decline. In the past year alone, California public schools lost 90,000 youngsters.

Coming at perhaps the lowest point in the history of California public education, Proposition 13 may well provide the shock that will force officials to make needed changes. But officials say numerous attempts to improve the public schools have already begun. In the

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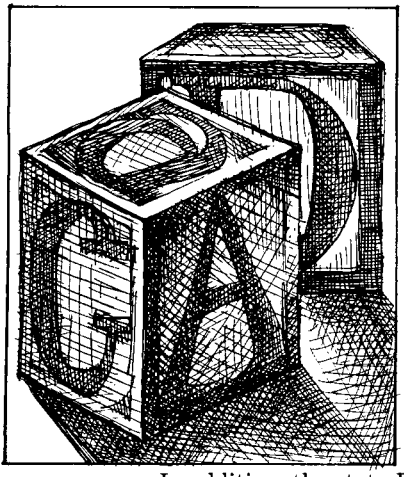


last two years, for example, California and 35 other states have passed laws or issued rulings that require the testing of student minimum competencies. After 1980, no student will be graduated from a California high school without having passed a proficiency test that measures the minimum skills expected of a twelfth grader. By next June, each local school board must adopt its proficiency standards to test the basic skills of all students. (See accompanying article.)

In addition, the state Department of Education is aiming to upgrade secondary-level instruction, to halt the slippage in student achievement that occurs between the primary grades and high school. The program is part of the school improvement portion of AB 65, the school finance bill passed last year, before Proposition 13. State schools chief Wilson Riles says AB 65 represents the first time the state has focused attention on the higher grades. "In a few years, we should be able to see some improvements," he predicts.

AB 65 contains provisions for the formation of councils of teachers, administrators and parents at each school site to decide how the schools are to be improved. The goal is to better involve the community, something the schools desperately need to do, according to Senator John Dunlap. Dunlap, chairman of the Senate Education Committee, says: "That's why the schools are criticized so much — people just don't know what's happening in them anymore."

Some school districts are beginning to initiate changes of their own. Many, for example, now offer attractive alternative or "magnet" programs in order to keep their students and to draw others back from private schools. Popular among these are the so-called fundamental or traditional schools, which stress a back-to-basics approach to teaching.

And in response to public pressure, some colleges are also tightening standards, thus forcing the secondary schools to stiffen their course requirements for college-bound students. Colleges are also working with the schools to help train teachers in the teaching of basic skills. One such effort is the Bay Area Writing Project, which expanded from the Berkeley campus to a statewide project.

Vouchers revisited

Whether these efforts will salvage the schools' public image is difficult to say. There are some critics who feel that schools must undergo even more fundamental change, so that parents have the ultimate say in the education of their youngsters. They support some form of the controversial voucher plan, in which parents are issued certificates, reimbursable at both private and public schools of their choice. Such a plan was tried in San Jose's Alum Rock Unified District for five years, but the program never included the private schools in the area.

"Our whole society is changing. When these school critics were in the system, schools were still primarily rural, stable and white. Where can you find that today?"

The voucher idea has been around for years, but it has always been considered somewhat of an "egghead" approach to education. Recently, however, Coronado businessman and former school board member Richard Mudgett began a campaign in Southern California to get such a measure on the 1980 state ballot. Since Proposition 13 passed, Mudgett has retrenched to rethink some financing provisions in the light of California's new tax world.

Meanwhile, another plan, developed by two UC Berkeley law professors, is quietly being circulated statewide to gain support for the 1980 ballot. Written by John Coons and Stephen Sugarman, the proposal would phase in a system of public and private scholarship schools over a number of years, but would also leave intact some district-run public schools. The Coons-Sugarman plan, which is still being amended, calls for a basic scholarship that would be redeemable at any participating school. The amount of the scholarship would be determined by local costs, pupil age and other factors, such as services for disadvantaged or language-handicapped students.

Since 1973, private-school enrollments have increased by three percent annually, while public school enrollments continue to decline. In the past year alone, California public schools lost 90,000 youngsters.

In addition, the plan suggests "add-on" scholarships to be purchased by parents on a sliding-fee scale, dependent on family income. Theoretically, poor students would then be able to afford expensive schools.

To prevent racial segregation, participating schools would have to have an open-admissions policy, with placement by lottery in over-subscribed schools. Minority enrollments would be rewarded with financial bonuses.

Family choice, Coons says, is the central idea. "It's becoming plainer that if people really want to save the public schools, they may find that the only way to do it is to provide choice," he says.

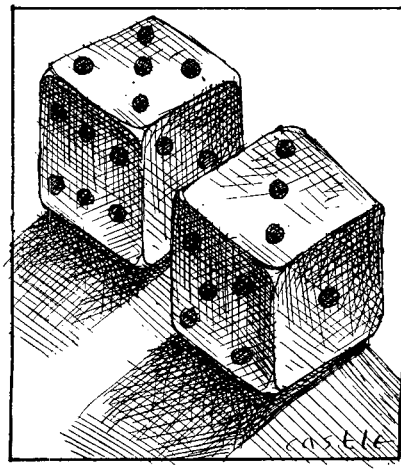
The captive audience

The key problem with the public schools, according to Coons, is that they're organized in the wrong way: "They have a captive audience. When you subject people to such coercion, you're crushing out the opportunity for family responsibility. And then they complain about families not paying attention to their kids' education."

The plan provides that the total cost would not exceed 90 percent of the total cost of public education now. It would be entirely state-funded, except for the add-on scholarships paid for by parents. Coons, who says their plan is still being revised, admits the idea is somewhat "esoteric." But he claims most people like it, once they understand it.

Official reaction ranges from cautious support to strong opposition among those who believe a voucher system would spell the end of public education in the state. Senator Gregorio says he likes it, but thinks the "bugs" have to be worked out. Others believe it is fanciful to suppose that private schools would be willing to take the harder-to-educate, high-cost disadvantaged students. Private school advocates contend their institutions would do a better job at less cost than the public schools and thus would be very interested in the voucher plan.

Senator Dunlap opposes the idea: "It's up to the state and the districts to run the public school system and to run it right, before going with an alternative." Dunlap says he is optimistic that, despite nearly two decades of decline, the public schools will straighten themselves out. "I think people still care. They are willing to pay for education, but they want to see it improved and responsive. There are going to be some ups and downs until we get to that point."



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HIGH SCHOOL DIPLOMAS

WILL THEY SOON BE WORTH SOMETHING?

By MARCIA MEIER

How much is a high-school diploma worth?

In California, it often means little more than that a student spent a dozen years in the public schools. Many youngsters who literally cannot read or write are being graduated from the state's high schools.

But that won't be the case much longer. California is about to join a national movement that requires students to pass proficiency tests before they can get their diplomas. To date, 35 states have mandated some kind of testing for competency. California's Pupil Proficiency Law, passed by the Legislature in 1976, requires proficiency assessment of students once between grades four and six, once between seventh and ninth, and two assessments of competency in reading, writing and math in the tenth and eleventh grades. Students who fail will not receive diplomas.

Authored by Assemblyman Gary Hart of Santa Barbara, the law also requires every school district to notify parents of students who fail the tests and to set up meetings to discuss courses of action for the students.

District-set standards

Hart believes one of the best things about the new law is the requirement that each school district must set its own standards of proficiency. There may be a few districts which make a mockery of the bill by setting standards so low that anyone could pass, he says. But the alternative would be a statewide test, which Hart says was one of the biggest problems Florida had in implementing their assessment-for-graduation program. Florida also had trouble with timing: Its program went into effect quickly and hundreds of students failed the tests. California's law starts the testing this year, but denial of diplomas won't begin until 1981. Thus students who fail the proficiency tests this year will have two years to improve their basic skills and to pass the tests before graduation.

Yet even that lead-in time may not be enough. Some school officials think it will be impossible to teach a high school student in two years what he or she failed to get in the preceding ten. In Sacramento Unified School District, almost half of all students who took the first sample competency tests last year failed them. One Sacramento school board member, Judy Kerri, advocates starting the tests back in the fourth grade and then delaying the diploma-denial aspect of the law until those students are ready to graduate.

Next door to Sacramento, in the suburban San Juan Unified School District, high-school testing began in 1975, even before the Hart bill was passed. The failure rate the first time around "was quite a shock — almost 50 percent," according to Cornelia Whitaker, San Juan's director of curriculum. So the district set new graduation requirements, changed the curriculum and began testing in lower grades. In last June's senior class, only seven percent failed the tests.

Some serious questions

Hart says high failure rates are to be expected at first — and that teachers and school officials should use the early test results to improve curriculum. But there are other, serious questions raised by the Hart bill:

• *What should the tests contain?* The bill provided $175,000 for the State Department of Education to prepare sample test items as guides for school districts. Dave Gordon, assistant chief of the department's office of program evaluation and research, says the result was about 1,300 sample test items — but each district must resolve whether its tests will stick to "basics" or examine a student's ability to apply those basic skills to everyday problems.

Hart favors using the tests to measure competency in basic skills, but many others believe the tests should check "adult-life skills," such as balancing a checkbook, reading a recipe and filling out a job application.

"I have a bias," Hart says, "that filling out job applications and so-called survival skills are not the purposes of the law. I personally would like to see school districts focus on reading and writing skills."

Hart, a former high school teacher, says he was appalled at the lack of writing, reading and computation skills his senior high students displayed. "Some legislators and parents," he says, "are not as cognizant of the problems in teaching someone 15 years old who is reading at the third grade level."

• *Should the tests make allowances for cultural or language differences?* A staff attorney for the Center for Law and Education in Cambridge, Massachusetts — in a Department of Education-commissioned report to the state's school districts — warned of the legal problems inherent in tests that may be discriminatory.

"While substantial numbers of

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white middle-class students cannot meet minimal competency standards," wrote Merle S. McClung, "some evidence indicates that a disproportionate number of black and Hispanic students will not be able to meet the proficiency test requirements."

There are 275,000 limited or non-English speaking students out of 4.4 million students in the state, according to the Education Department. Some districts offer bilingual classes, but unless the district develops proficiency tests specifically for limited and non-English speaking students, they may disproportionately fail the tests.

Hart believes minority students should be able to function in English because it is the dominant language of the state: "I think there should be sensitivity to the different kinds of cultural differences the students bring to the classroom," Hart says, "but I think that assessments should be given in English. I really think in the end we do a disservice to these kids, because our state is not at this point bilingual."

But Sacramento board member Kerri disagrees. She feels it is unfair to those students who are proficient in their own language not to get a diploma. Kerri thinks there ought to be an amendment to the law requiring residency, so if, for example, students come from China in their eleventh year of school, they wouldn't be penalized just because they did not know the language.

• *Will school districts face lawsuits from students who don't get diplomas after 12 years of schooling?* If a test fails to reflect accurately what a student has been exposed to in the curriculum, then a district may indeed be liable. According to attorney McClung: "A proficiency test lacking curricular or instructional validity might violate substantive due process because, when given such a test, the students are being penalized, even though their poor performances in the test are not their fault."

According to McClung, there are two basic ways to match the instruction and the test: Design the instruction to reflect the test, or design the test to reflect instruction. Kerri says the ideal way would be to set up the curriculum and then test for basic skills. But, she adds, "I don't think school districts are doing this. Our district didn't." Other observers fear that the curriculum will be narrowed by a developing "test mentality." In response, Kerri says: "Taking drama or Shakespeare is a disservice to students if they can't write a simple sentence to begin with."

• *In light of Proposition 13, will schools be able to afford the remedial classes to help students who flunk the tests?* The Hart bill allocated about $400,000 for implementation of the law, $224,000 to cover notification of parents, and $175,000 to the state Department of Education to develop the sample test items. Money needed to start additional classes for proficiency teaching is not included — but Gordon predicts state funds will be available. The bigger problem, he believes, will be motivating the students to take such remedial classes.

Hart admits that Proposition 13 will present funding problems for remedial efforts: "We will have to reorganize our priorities."

• *Should more than one kind of diploma be issued – one for regular students who pass the required tests, another for special education or learning-disabled students – and maybe even a certificate of attendance for those who flunk the tests?* The Hart bill allows districts to set different standards for special education or learning-disabled students. This portion of the law is causing serious discussion about the real meaning of a diploma. If a district sets different graduation standards for the learning disabled, should those students get regular diplomas or a specially labeled one? The problem is extremely sensitive. So is the issue of whether students who flunk the tests but attended classes regularly get certificates of completion.

One concern is that the differing diplomas could lead to a "tracking" system, in which a student may be labeled incapable and channelled into a certificate-of-completion "track." Then teachers and districts would not have to put energy and money into remedial classes.

Hart requested an opinion from Attorney General Evelle J. Younger on this subject earlier this year. Younger's answer, in part: "While it is probable that a court would uphold the authority of a school district to issue a certificate of completion . . . the failure to grant a diploma of graduation has the same negative effects as the issuing of a certificate of completion where the basis for such an act is the failure of the pupil to meet the district's standards of proficiency in basic skills."

Enormous implications

So obviously the political and legal implications of the Hart bill are enormous. Most observers believe the biggest problems will arise where public education has been expected to overcome a vast range of social ills: in the inner-city districts of cities like San Francisco, Los Angeles and Oakland.

Hart considers his bill "a modest first step in helping those kids who don't have basic skills." But the long-range results may be much more than modest.

Marcia Meier, a journalism student at California Polytechnic State University at San Luis Obispo, prepared this article as a Journal *intern from the Sacramento Semester Program of Sacramento State University.*

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The role of politics in the San Diego air disaster

PHOTO BY ROGER HOLDEN/PHOTOPHILE

By DONALD H. HARRISON

For more than 20 years opponents of San Diego's Lindbergh Field have warned that an airplane crash in its vicinity could kill not only the passengers but many people on the ground as well. The warnings were dismissed as scare tactics until the morning of September 25th, when a PSA jet collided with a private Cessna aircraft and the wreckage dropped onto 16 households, obliterating several of them.

First estimates were that 151 lives were lost, including those of 13 people who had been going about their daily lives in the city's blue-collar neighborhood of North Park. Coroner's teams, working from fingerprints and dental charts, later speculated that as few as seven people were killed on the ground.

The city pulled and mourned together in the days following the nation's worst and San Diego's first commercial airline disaster. Politicians whose views were well-known were restrained in their comments; none wanted the grief to be politicized. And yet it was obvious: The crash has reignited San Diego's longest and bitterest controversy. It would be a matter only of political timing before a battle would be fought again over the location of the airport.

The National Transporation Safety Board scheduled a hearing into the air crash, and as one local government jurisdiction after another petitioned to be made a party to the hearing it appeared likely that the NTSB hearing could be the battleground.

But another possibility was that the fight would be made where it had been fought before — in the board room of the San Diego region's council of governments, the Comprehensive Planning Organization. Like other COGs throughout the nation, the CPO is required to submit to the federal government an annual update of its regional transportation plan. Hearings on the plan, including its aviation element, tentatively were planned for November.

A determined mayor

What few muted comments were made in the days immediately following the air collision indicated that positions are as hard as ever. Mayor Pete Wilson of San Diego, the best-known advocate of moving the airport, seemed determined to try again to have the facility located at Otay Mesa, a rural plateau just north of the Mexican border. And Maurice McDonald, manager of Lindbergh Field, seemed intent on resisting. "People keep asking me what would happen if we'd only move the airport somewhere else," he said. "I have no intention of being flip, but I have to answer them honestly. If the airport had been somewhere else, those planes would probably have fallen on someone else's homes."

The political struggle over the location of the airport had its genesis in the coming of the jet age. In 1955, the city of San Diego paid $19,200 to a consulting firm to recommend a good location where commercial jet aircraft could be accommodated. The firm recommended three locations, but in

Donald H. Harrison is a political writer for the San Diego Union.

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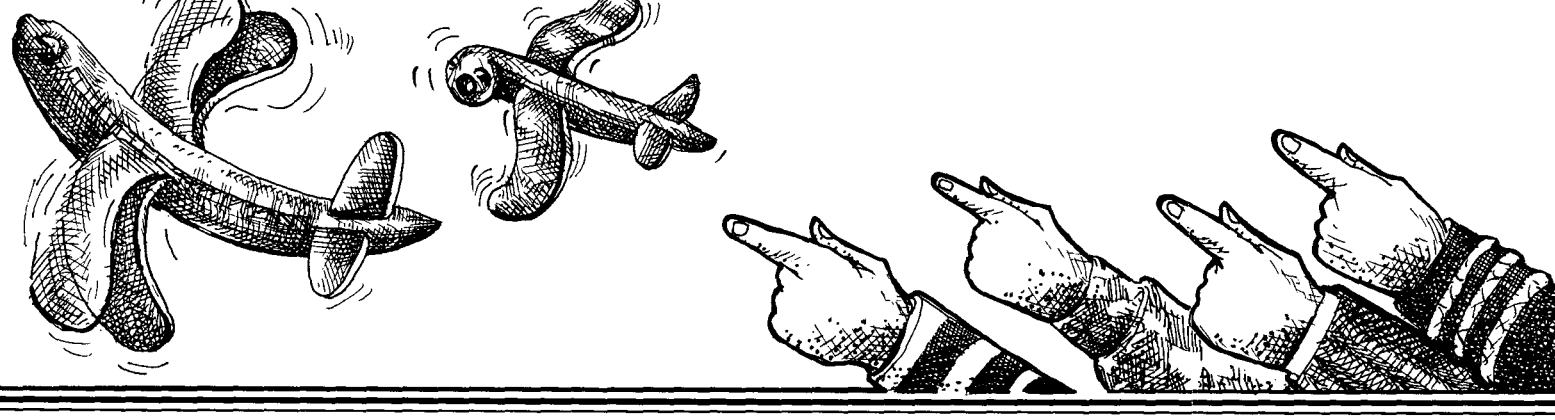

each case the Navy objected. Two would have conflicted with naval air operations at North Island Naval Air Station, and the other would have conflicted with naval operations at Miramar Naval Air Station.

Today, the Navy still plays an important role in the controversy. When in 1973 the consulting firm of Daniel, Mann Johnson and Mendenhall recommended that an airport be located in Carmel Valley, to the east of Del Mar, one of the reasons for rejecting the recommendation was the potential for conflict with flights from Miramar NAS.

Attention then focused on three locations: Miramar itself, Lindbergh Field and Otay Mesa. From the standpoints of safety, convenience, noise, land use, cost and availability, each location had advantages and drawbacks.

A Lindbergh landing

Those who have flown into the San Diego airport never will forget the visual experience. A plane from the north flies parallel to the California coast, cuts inland at San Diego's northern city limits, arcs over San Diego Stadium and North Park, and after circling south, affords close-up views of San Diego's premier tourist attractions. San Diego Bay is to the left and Balboa Park is to the right as the plane enters the final approach. The plane literally skims over the top of downtown as its wheels stretch to reach over Interstate 5 for the 9,400-foot-long runway.

Pilots call this the "white knuckle landing."

Because the man-made terrain necessitates a steeper-than-normal glidepath, minimum standards for landing are stricter at Lindbergh than at most other airports. Others have 300-foot ceilings and half-mile visibility requirements. The minimums at Lindbergh are 800 feet and two miles.

Until the September 25th disaster, Lindbergh never had a major mishap. Often that was explained with the reverse logic that because the approach is so dangerous, it actually is safe. Pilots are extra careful.

Adjacent to San Diego Bay, Lindbergh Field's 488 acres have been described as the most desirable real estate in America. Mayor Wilson would very much like to get the Legislature to change the state's tideland laws in order to permit residential development of Lindbergh Field. Such development, in Wilson's view, could attract residents back to the downtown, facilitate the rebuilding of the urban core and slow the sprawl of the surburbs.

But others have stakes at Lindbergh. PSA has its corporate headquarters at the airfield, and also at that location are the plants of two of San Diego's largest aerospace industry employers, Teledyne Ryan and Convair. Wilson has proposed retention of a small cross-runway at the eastern end of Lindbergh Field to serve the two manufacturers, and the closure of the rest of the field.

An estimated 36,000 San Diegans live in Lindbergh Field's acute noise zone — defined as that area which by 1985 still will be exposed to noise levels above the permissible maximum set by state law.

Over the years, residents of Loma Portal, whose homes endure the sounds of jets thrusting on take-off, have formed groups with such names as CRASH (Citizens Rally and Appeal to Save the Heart of San Diego) and ARC (Airport Relocation Committee). In 1975, they actively lobbied the San Diego City Council and other city councils in the region to support a move of the airport from Lindbergh Field to Otay Mesa. When that drive failed, the residents instituted court suits in a vain attempt to block a $13 million terminal addition which is now under construction at Lindbergh.

As the controversy heats up again over the location of the airport, these residents are preparing for the battle. Less than a week after the crash they announced formation of the Airport Coalition, composed of residents of neighborhoods under the airport's landing and takeoff patterns.

Miramar's big problem

Miramar Naval Air Station, to the northeast of Lindbergh Field, has some residential development on its periphery — such as the communities of Tierrasanta, Scripps Ranch and Mira Mesa — but the density is much less than that near Lindbergh Field. While the approach is considered safer than either that of Lindbergh Field or Otay Mesa, Miramar NAS poses one very major problem for those who advocate it as the location of the airport: The Navy neither wants to give up Miramar nor to share it with civilian air traffic.

The facility is used for carrier practice landings, and F-14s and other advanced aircraft practice touch-and-go landings there. The airport handles about 300,000 flights a year, and Navy officials frown at the prospect of adding commercial flights to that load.

Nor is the idea of mixing military and commercial flights popular in the wake of the September 25th midair collision. San Diego newspapers have been filled with letters protesting the mixing of private and commercial aircraft at Lindbergh Field. Comparing the practice to mixing pedestrian and freeway traffic, a move is on to have small planes banned from Lindbergh.

Some San Diegans believe that the Navy can be persuaded to give up Miramar NAS — and perhaps move its operations to Yuma, Arizona — if there is sufficient pressure at the federal level for further military base consolidations. These San Diegans argue that the issue should be pressed in Washington, especially because Miramar's location in the northeastern portion of the city makes it readily accessible by car to most of San Diego County's population.

Otay Mesa's dangers

Those who favor moving Lindbergh Field as soon as possible despair of getting the Navy to move first, and look instead to the open lands along the Mexican border. However, there are important safety concerns at Otay Mesa, and the site is inconvenient to most of the county's populace. Also, there are those who fear complications because of the proximity to Mexican airspace: problems with language, international overflights and diplomacy — particularly if relations between the United States and Mexico ever should become tense.

During hearings by the San Diego City Council in 1975,

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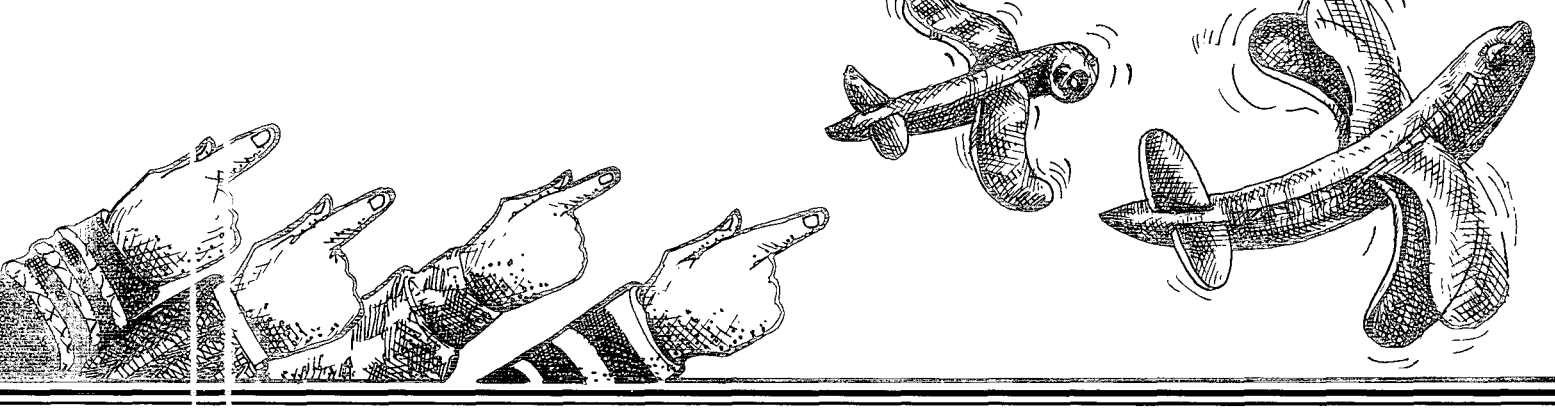

Dan Pellegrino, safety chairman for a PSA employee group, testified that Otay Mesa could be "potentially the most dangerous international airport in the world.

"The highest terrain 2.2 miles from the runway at Lindbergh is only 290 feet above the runway level," Pellegrino said. "At Otay Mesa the terrain is 540 feet above the runway 2.2 miles away. Also, there are two mountain peaks — 3,600 and 2,700 feet — 6.2 miles to the east of the proposed airport."

Don McBain, another pilot, testified: "The Otay Mesa area is satisfactory for a daytime, visual operation. At night, or in instrument weather, the mountain range to the east becomes a hazard. If this site is chosen, I would expect a series of accidents to occur over a period of years. Probably air carrier pilots could avoid the terrain, but general aviation accidents most certainly would occur."

The airlines have opposed Otay Mesa on the grounds that the site is not convenient to a majority of the county's population. J. Floyd Andrews, in 1975 still head of PSA, worried that the airline might lose many customers on its San Diego to Los Angeles run. If people had to drive to the Mexican border to catch an airplane to Los Angeles, they might decide to drive to Los Angeles instead. "People just don't go backward to go forward," he reasoned.

Residents of Otay Mesa and of San Ysidro — the section of San Diego at the Mexican border — say they don't want the noise. They argue that the area ought to be used in a way to enhance California's relationship with Mexico — perhaps as the site of a joint university.

"We don't want a prison and we don't want an airport," is a common saying there. "We don't want to be the dumping grounds for everything everyone else doesn't want." The proposed airport site is on the same land that the state Department of Corrections has been eyeing for a state prison.

Wilson has argued that an airport would benefit the predominantly Mexican-American population of San Ysidro. "We've got a large labor pool suffering from high unemployment, and I think it's essentially a very good opportunity," the mayor said during the 1975 hearings. He contended that light industries would be attracted to the airport.

A short-lived victory

The Comprehensive Planning Organization estimated that a new airport could be constructed on Otay Mesa for $189 million, but that 1973 figure immediately was disputed on the basis of inflation. Some estimates ran to twice that amount. There was argument over how much of the cost would be borne by the federal government, how much by the airlines, how much by airline customers and how much by the taxpayers. The cost of a new airport is potentially the strongest argument Otay Mesa's opponents can make in post-Proposition 13 California. Lindbergh Field proponents can point out that the San Diego Unified Port District, which operates the airport, augments its finances with revenues from hotel, restaurant and commercial leases, not from property taxes.

In 1975, after hearings by the San Diego City Council, the county Board of Supervisors and other city councils in the San Diego region, the question of the airport's future location went to the CPO's board of directors.

On controversial questions, the council of governments employs a weighted vote formula which roughly approximates the population of its member agencies. On March 17th, 1975, the City of San Diego cast 40 votes, the county of San Diego 30 and the 12 other incorporated cities shared 30 votes. (Today, with the newly incorporated city of Lemon Grove a member, 13 cities share 30 votes.)

To win support for Otay Mesa, San Diego needed support from at least four other jurisdictions with a combined strength of at least 11 votes. When the vote was taken, six cities with a combined strength of 16 votes joined San Diego in support of Otay Mesa. However, several of these cities designated Otay Mesa as their second choice, and voted for the location only after Lindbergh Field and Miramar Naval Air Station respectively were unable to secure enough votes.

But the victory was short-lived. Within seven months, the county of San Diego changed its position from one favoring Miramar NAS to one favoring retention of Lindbergh Field, and when another CPO vote was called for, Lindbergh Field won easily.

That vote, on October 14th, 1975, put the following entities on record in favor of Lindbergh Field: the county government, Carlsbad, Coronado, Chula Vista, El Cajon, Imperial Beach, National City, Oceanside and Vista. The coalition controlled 52 of CPO's 100 weighted votes. Otay Mesa's supporters were San Diego, Del Mar, Escondido, and La Mesa, for a total of 47 weighted votes. San Marcos was absent.

The balloting found San Diego on the opposite side of its four partners in the San Diego Unified Port District: Chula Vista, Coronado, Imperial Beach and National City. The port, an independent political entity, is run by a seven-member commission. Three commissioners are appointed by the city of San Diego, and the other cities control a majority of the appointments.

So, even if San Diego is able to get a majority of the CPO board to vote once again for Otay Mesa, there could be thorny legal problems. What if the port district refused to shut down the airport? Since the 1975 balloting on the airport, the composition of the San Diego City Council and of the government boards of almost every other jurisdiction in the region has changed.

Wilson still supports Otay Mesa, but at this point it is uncertain whether his city council agrees. Four new city council members were elected to the nine-member body in 1977. And a fifth recently was appointed to replace Jess Haro, who was ousted from the council earlier this year after being sentenced to 90 days in federal prison for customs fraud. But every local politician, newcomer or veteran, will eventually have to take a stand on the airport's location. Like the tragic memories of Flight 182, the controversy will not fade away.

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The politics of cancer in California industry

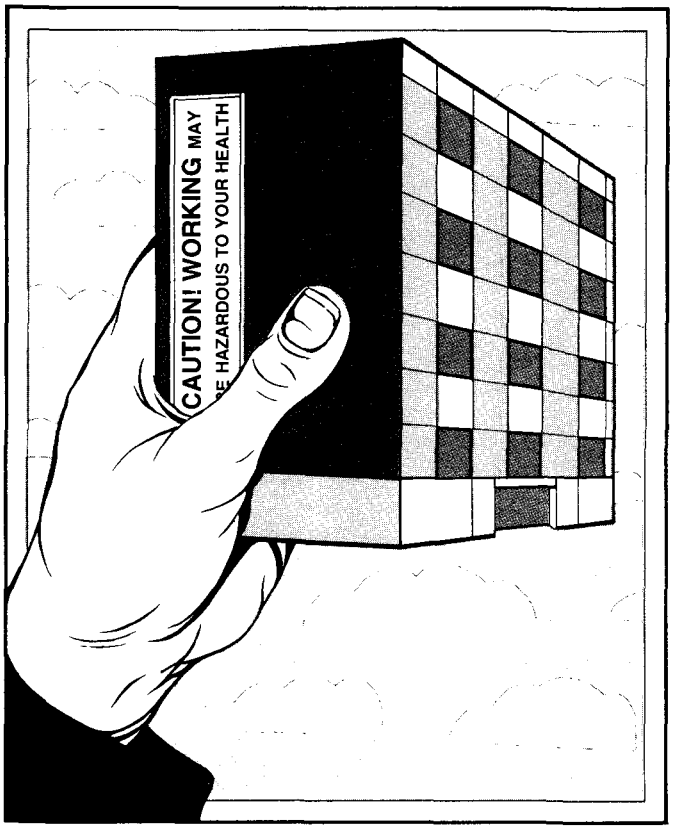
By GEORGE THURLOW

In Lompoc, death certificates indicate that workers at the Johns-Manville plant there are twice as likely to die of cancer as is the general population.

In Lathrop, male employees in the Occidental Petroleum Company's agricultural services plant have been warned that their exposure to a pesticide has rendered them sexually impotent and may endanger their lives.

At the Lawrence Livermore Labs in Livermore, employees working in and around the radiation labs have twice the skin cancer rate of the general population.

Such grim statistics continue to mount, despite four years of state enforcement of workplace health and safety regulations by the California Occupational Safety and Health Administration (OSHA). And the state is apparently doing no better in the agricultural fields than in the factories: Last month a state environmental assessment team sharply criticized the California Department of Food and Agriculture's ability to register, regulate and monitor the use of pesticides in the public's interest.



Latest statistics on 14 known carcinogens used in California indicate that more than 10,000 employers utilize the chemicals in their plants. Another 60,000 employers use asbestos, a generally recognized carcinogen. But they are only a small part of the picture: There are another 1,500 chemicals which have been identified by the National Institute of Occupational Safety and Health (NIOSH) as being "suspected carcinogens." Nobody knows how many employers are using these chemicals in California.

Jim Heacock, head of the state Occupational Health Branch, which is now under the Department of Industrial Relations (DIR), estimates there are 25,000 commonly used chemicals in California, of which "we have a handle on barely 600." DIR chief Don Vial admits that the state now has a "fire-station system of going after carcinogens. The way it is now, we're waiting for the next chemical of the day. Then we put all of our resources into it and come in like gangbusters, after the fact, after the worker has been exposed and after the employer has become hooked on the substance. And everybody is hurt."

Bureaucratic hassles

One of the first attempts to come to grips with carcinogens in California was legislation introduced by Senator Arlen Gregorio of Menlo Park. Gregorio's bill, which became law January 1st, 1977, requires the users of 16 known carcinogens, including asbestos and vinyl chloride, to register with the state. An advisory board was formed to determine which new chemicals should be added to the carcinogens registration list. Fines of up to $5,000 can be levied for willful violations of the registration program.

The federal government was so impressed with this program that it kicked in 50 percent of the first year's funding of $1.35 million. But the program has had its share of start-up problems. Bureaucratic hassles have almost nullified any progress the newly created Carcinogens Control Unit made with its initial registration drive among chemical users. But the chaos and confusion of the first year and a half of the CCU is insignificant when the bigger problems of carcinogens in California are reviewed. Nowhere have those problems been more apparent than in the case of DBCP, an agricultural pesticide produced in a Lathrop chemical plant. Despite its comprehensive health and safety inspection program and its new carcinogens unit, the state did not uncover the problem at the Occidental Petroleum plant's agricultural chemical division. Instead, the first indications that something was amiss in the small Central Valley town south of Stockton came from the workers themselves. The workers' union, the Oil Chemical and Atomic Workers, asked

George Thurlow is a reporter for the Woodland Daily Democrat.

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seven men in early 1977 to volunteer for sperm sampling. When the results came back, union leaders contacted Dr. Donald Wharton, director of the privately run Labor Occupational Health Project in Berkeley. Funded in 1974 by a five-year Ford Foundation grant, the project has been involved in occupational health research for numerous industries and many labor unions.

When workers from Occidental were tested by Wharton, he found some startling results: Of 107 men in the agriculture service division, 13 percent had a sperm count of 0; 16 percent had a low sperm count; 16 percent had "borderline" sperm counts. The cause was identified as dibromochloropropane, or DBCP, marketed under a variety of names in nurseries and agricultural chemical supply firms.

The National Cancer Institute says its studies in 1973 show DBCP caused stomach cancer in male and female rats and mice and breast cancer in female specimens. None of the Lathrop workers tested has yet developed any cancerous tumors.

Once Wharton's tests were confirmed, the state acted quickly and banned DBCP, although that ban may now be lifted for a limited use on citrus and grape crops. Identifying DBCP as the culprit was itself a problem, according to Wharton: "One of the problems was with the plant in the ag-chem area. They used some 200-odd chemicals over different periods of time," he says.

Fortunately a private industrial hygiene survey being conducted for Occidental at the plant at the same time tipped investigation to the fact that there were high levels of DBCP in the air in the ag-chem division.

A failure to warn

But the most startling fact to come out of lengthy state hearings on the DBCP disaster, called by state DIR chief Don Vial in October last year, was that, as early as 1957, chemical producers knew that DBCP was a dangerous chemical. Scientists, working under grants provided by the makers of DBCP, failed to set safe standards for the chemical's use and failed to warn workers of its hazards. Shell Oil Company provided $400,000 for University of California research by Dr. Charles Hine, who in 1962 found that the chemical caused testicular atrophy and liver and kidney damage in laboratory rats. Hine set the safe level of DBCP exposure at one part per million after finding that rats were harmed at five parts per million. He admitted at the hearings that he did not test rats at the lower limit. The men at Lathrop were found to have been harmed at levels of one-third part per million of DBCP.

After being grilled by state Department of Industrial Relations officials during the four-day hearings into DBCP, Hine angrily responded, "Your division has never set a standard, never asked about it. There is no data published by your division. Your division has had access to all the published data for 16 years and never asked."

In opening the hearings, Vial had another analysis of the problem: "We now know that, despite early research warnings when DBCP was first developed 20 years ago, the emphasis on marketing a lucrative economic poison apparently outweighed any consideration for the protection or well-being of the workers."

A special task force, created at the direction of Vial after the DBCP hearings, called for the creation of a hazardous-substances repository to collect, integrate and disseminate information on the 60,000 chemicals it claims are now used in California. Additionally the task force called for the establishment of two occupational health centers in California to overcome the critical shortage of occupational health specialists in the state.

In a 61-page feasibility study of such a toxic-substances computer information system, the Mitre Corporation,

Medically, the tip of the iceberg

Not far from the bustling waterfront of San Francisco's Fisherman's Wharf, a steady stream of men and women make their way into the upstairs conference room of the International Longshoremen's union hall. The are shipyard workers who come in to give their medical histories and to have three X-rays taken of their chests. Then they sit down to await the results.

Since World War II some 250,000 workers have been employed in Bay Area shipyards. This past summer the Western Institute for Occupational/Environmental Sciences, a non-profit corporation, began screening more than 2,000 of these workers to determine if their shipyard labors had brought them into contact with asbestos.

Dr. Philip Polakoff, the director of WIOES, has already found — in an initial screening of 359 Mare Island Naval Shipyard workers — that 59 percent had lung abnormalities compatible with asbestos-related diseases.

Polakoff is not pleased with the involvement of the state or the industry in the occupational health struggle: "Many people who come for the screening think the federal government is paying for this. They aren't. This is all volunteer."

The project has received $97,000 from the federal National Institute for Occupational Safety and Health (NIOSH), $97,000 from labor unions and a $10,000 commitment from the federal OSHA which has not yet been delivered.

Pointing to a stack of literature on the hazards of asbestos exposure and smoking, Dr. Polakoff claims WIOES has spent $10,000 on occupational health information alone. By contrast, he says the state has only spent $3,000 on occupational health information for workers. "They (the state health system) have not had one program like this. They certainly are not visible in the field," Polakoff says.

But he remains optimistic, and if WIOES can get enough funding he plans to begin studies of welders and the effect of breathing toxic fumes. He also is interested in looking at the effects of microwave transmitters on the eyes and reproductive organs of those who are exposed to their radiation.

As the shipyard workers continue to file into the screening room, Polakoff describes their typical reactions: "They are angry, bitter. Would you want to know you had lung cancer, that you might die at 50 or 52 years old? Maybe you only spent a summer in the shipyards, putting yourself through school. They ask, 'What can you do about it?' Their doctors tell them, 'Nothing.' The prognosis is 100 percent fatal within two to three years."

Polakoff admits that his work has "created a tremendous amount of anxiety among people. And asbestos is only a prototype. Asbestos is not going to be alone. There are going to be others coming down the pike."

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which has set up similar federal systems, outlined the problem in California:

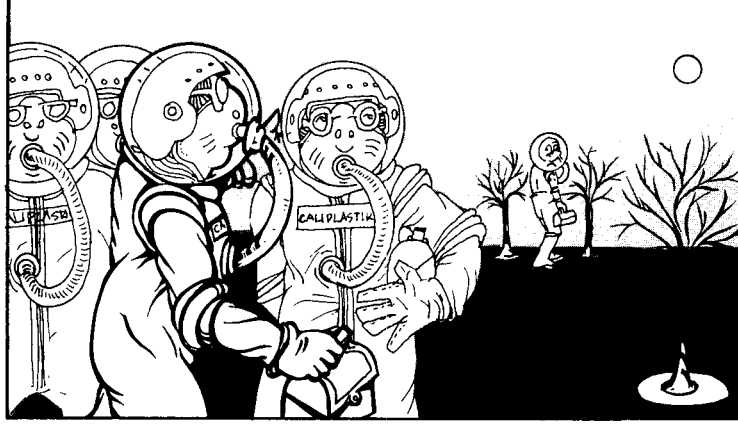
"The workplace is society's early warning system for chemical hazards. Workers are usually exposed to chemicals for longer periods and in higher concentrations than is true for citizens in other roles. They often develop chemically generated diseases before those exposed in other ways do. They therefore cannot rely on other groups to experience sickness first to provide a warning. There is at present no mechanism for alerting workers and employers of chemical hazards in California workplaces."

In calling for the new occupational health centers, the task force pointed to the current shortage of toxicologists. According to Dr. Herbert Stockinger, an expert in the development of threshold limit values (TLVs) — the maximum safe level of worker exposure to chemicals — it takes three toxicologists with doctoral degrees, working in a well-equipped laboratory, five years to develop TLVs for three compounds. California graduates fewer than ten such toxicologists a year, the task force said. With 600 compounds for which worker protection data exist, and 60,000 compounds in common use, the task force offered no hope that the 33 members of the Society of Toxicology in California would be able even to start the necessary testing.

Epidemiologists — the scientific detectives who read statistics and death certificates to find the cancer trails — are as rare as bald eagles. The task force says there are only five or six professionals trained and working in this field. None is currently being trained in California. The report concluded, "The need is very large, although at this time estimation of the number of professionals needed in this field is virtually impossible."

In his budget proposed earlier this year, Governor Jerry Brown supported the new chemical repository and health centers and proposed spending $3 million for their creation. But after Proposition 13 was approved, the Legislature stripped the money from the Governor's budget. Assemblyman Lawrence Kapiloff then sponsored legislation for the repository (AB 3413) and the health centers (AB 3414) after the 1978-79 budget was passed. AB 3413 contained no appropriation but $1 million is expected to be placed in the 1979-80 DIR budget to fund the repository. AB 3414 contained an appropriation of $2 million for the health centers.

Originally the state Chamber of Commerce opposed Kapiloff's bills, as did a number of business and industry concerns. Chamber lobbyist Mike Braun called the toxic substances center a "complete duplication" of federal centers. He said the chamber was not opposed to the idea but "we're afraid of what it is used for . . . if it is used for harassment." Braun said the DBCP incident had been blown "totally out of proportion," adding there was "nothing wrong with it. You're not going to outlaw cancer by bringing everything down to 0 (exposure)," he said.



But after intense lobbying by DIR officials, Vial claimed the state Chamber of Commerce, Dow Chemical and the Farm Bureau were neutral on the idea. The California Medical Association, labor unions and the insurance industry supported the idea. Heavy opposition came from the California Manufacturers Association and Stauffer Chemical Company, according to Vial. After early passage in the Assembly, the two bills were approved in the state Senate in the final week of the session. "It's the climate, the post-Proposition 13 climate," Vial said before the Senate voted. "If it hadn't been for 13, we'd have the money in our pockets right now."

Industry's response

Yet getting a few million dollars for state health centers and information banks is peanuts compared to the multi-million dollar stakes in the cancer question. Industry representatives have steadfastly resisted the notion that any significant number of cancer cases is coming from the workplace. Dr. Robert Scala, the chief of Exxon Corporation's division of toxicology, recently said in San Francisco that stiffer state rules for the classification of carcinogens were based on a "wrong assumption — that there is a cancer epidemic in this country and that industrial and occupational exposure has played a significant role." Scala blames increased cancer rates on increased smoking of cigarettes and longer lives in the general population.

Major industrial interests have banded together to fight

Legally, a billion-dollar time bomb

Gasping and coughing, they file into Steve Kazan's law office in Oakland. It's the last hope for many. Sometimes the visitor is the widow of a man who has died after years of bad health.

Kazan and his two partners represent one of the largest groups of asbestos workers in California to file suit against an asbestos manufacturer. Representing 150 clients, both workers and survivors, Kazan's lawsuits are all aimed at Johns-Manville, the largest producer of asbestos in the country. His 150 suits are asking $1 million each in damages for fraud and $10 million for each plaintiff in punitive damages. In all, Kazan's clients are seeking $1.5 billion in punitive damages alone from J-M, or roughly one-and-a-half times the company's assets.

Kazan's clients come from the Pittsburg and Lompoc plants where asbestos has been used in manufacturing operations. (Lompoc discontinued using asbestos after a new state carcinogens-registration law went into effect in 1977.) Almost all have some form of lung disease or other affliction which they believe is a direct result of working for J-M.

The massive lawsuits allege that J-M acted fraudulently in concealing from workers the dangers of working with asbestos. California law prohibits an employee from suing his employer for damages suffered while in the workplace. A worker's only remedy for such injuries is workers' compensation, a system that is adequate for minor claims but which is inadequate to cover the damaged health and life of a worker who may have industrially produced cancer or lung damage, according to Kazan.

So attorneys are turning to laws on products liability and fraud. In the case of *Glen Harter vs. Johns-Manville*, which is the lead case of the Lompoc J-M cases, a trial court judge ruled the employees had the right to sue for fraud. J-M appealed to the California Supreme Court, which in May of this year refused to hear the case, and thus

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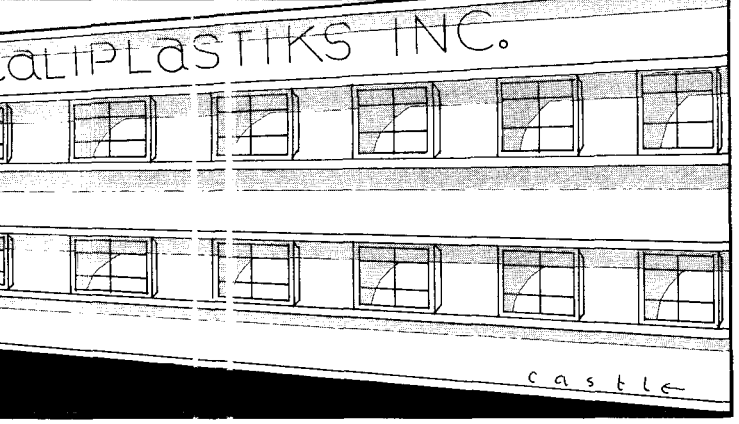

the problem on their own, forming a national American Industrial Health Council, whose members include Johns-Manville, Monsanto, Dow, DuPont, Exxon, Allied Chemical, Stauffer Chemical and Union Carbide, among others. The council recently issued a report on occupational cancers which said in part: "The best estimate is that occupational exposure to industrial chemicals has accounted for about one to five percent of all cancer. This is not an insignificant number of cancers, but it is reasonable to question whether the public is being well-served by being led to believe that industrial chemicals are an overwhelming cause of cancer in this country.'

The industries have reason for concern about the growing suspicion that petroleum and chemical processing may be one source of cancer, both for workers and for the general population. In a study published in the October 1977 issue of *Science*, three scientists from the National Cancer Institute found that people who live in counties with high petroleum activities have a much higher probability of dying of cancer of the sinus and nasal cavity, lungs, skin, testes, stomach and rectum. At the conclusion of the study the three researchers wrote: "The findings of this survey suggest the need for industry-wide epidemeological studies to clarify the risk of cancer among various groups of petroleum workers and to evaluate the possible effect of petrochemical emissions released into neighboring communities."

By contrast, studies funded by the American Petroleum Institute in 1974 found no clear indication that petroleum industry workers were exposed to excessive chemical risks.

Environmental police force?

The real problem in occupational health is in the enforcement realm, says Larry Agran, author of *The Cancer Connection*. "It's not at all sexy to engage in strict enforcement of OSHA standards. It's as rewarding politically as strict enforcement of speed limits. And the rewards in health and safety are not immediately apparent."

Agran, an Irvine city councilman, believes that "we know right now which are the most hazardous industries. What we need is an environmental police force. The executive branch officials (in California) have tended to stay away from that."

Agran expects that the next cancer "epidemic" may be found in and around plastics and petrochemical industries, which he terms disasters. "It's like people get very, very excited about the death penalty, as they should. But when you look at the occupational health and safety picture there is little response. Here is where the ordinary law enforcement officer can save many, many more lives than with a death penalty statute.

"It's not heroic, not dramatic. Just making the law work. There's nothing exciting about that."

Department of Industrial Relations chief counsel Peter Weiner, and other state officials, see some signs that industry's adamant position is changing.

"We don't want an alarm of the week, but we also don't want a death of the week," says Weiner. "So we're looking for a way to use these substances which are valuable to our industrial processes in a safe and healthy way. You know that if you put the right protective equipment on people or the right engineering controls, that these things can be used without harm."

State officals are keenly aware that added chemical regulation is going to have an impact on the economy. "That's the key issue," Vial says. "Right off the bat, I'd say that most of the toxic substances, the ones we've identified as carcinogens, probably have no adequate substitute. If there is a substitute, industry has to be encouraged to go after it as quickly as possible, so they don't get trapped into using something and then it has to be taken off the market. They need to know that.

"Beyond that, dealing with the safe use of a toxic substance does impose costs. My answer to that is that if we have to make this sea of chemicals navigable for industry, because of the great importance of these chemicals to the industrial process — then we also have to develop ways so that the cost of providing for safe use is seen as a lower cost than waiting for an exposure to take place.

"Right now there is a tremendous lag period between those cost confrontations. But the chemical industry is beginning to see the relationships a little better now."

let the lower court ruling stand.

Eventually all the Lompoc cases will be consolidated under the name of *Glen Harter vs J-M*, Kazan says. Harter was one of the first workers in California to go before the Workers' Compensation Board and claim his lung cancer was from asbestos at the plant. All the Pittsburg J-M plant cases will be consolidated under the name of Reba Rudkin, who developed lung disease after working at J-M and whose wife developed lung disease even though she never worked in the plant. Kazan alleges her disease is a result of washing her husband's work clothes. The cases are expected to go to trial within two years. Kazan expects that out-of-court settlements of some cases — those involving applicators of asbestos products, such as insulation workers and shipyard workers — will occur sometime during the next year. Fees from those settlements will help finance the research, travel expenses and doctors needed on the J-M plant suits for fraud and conspiracy.

Information from similar suits against J-M on the East Coast is traded by attorneys to Kazan for information and deposition information which he has collected. Kazan says one East Coast attorney has 900 scientific journal articles on asbestos.

"These are very complicated cases," Kazan says. "The scientific aspects are immense. Proving each person has a medical illness related to an industrial job will be difficult."

In the meantime, J-M attorneys are not even conceding the fact that asbestos causes certain rare forms of cancer. "I could spend the rest of my life litigating industrial lung disease cases," Kazan says. "Asbestos may well be the worst because of its widespread use."

Already his practice is spreading into other industries. He has begun to develop the initial legal briefs for a leukemia victim who worked for two major Richmond chemical companies and was exposed to the highly carcinogenic benzene.

Could such massive lawsuits and potentially huge jury verdicts literally bankrupt certain companies? "The resistance we have in Lompoc is the comments of people that 'you're going to put the company out of business and we're going to lose our jobs.' I say if the only way you're going to stay in business is to kill people, then maybe you have to close it down."

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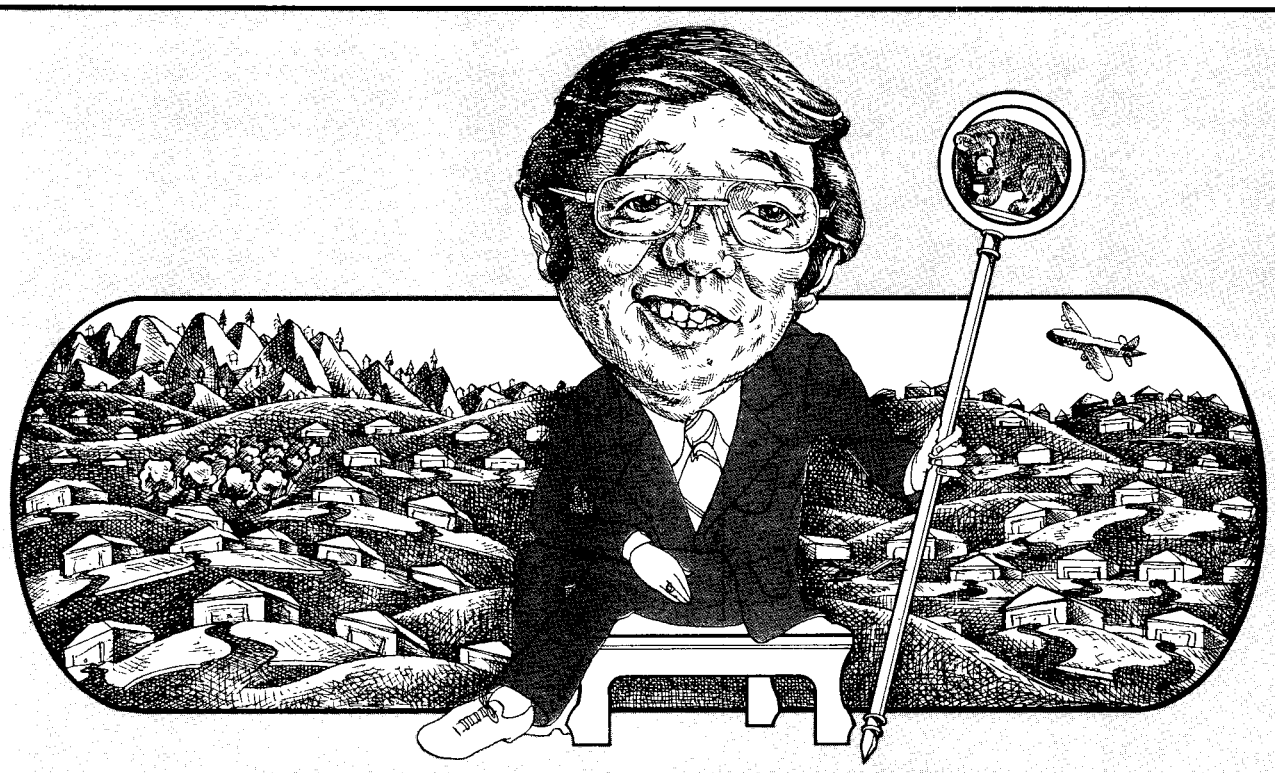

PRINCE OF THE PRAGMATISTS

San Jose's Mineta – Californian to watch in Washington

By Gil Bailey

When the House Public Works Committee's subcommittee on federal buildings and grounds held its first meeting last year with its new chairman, Representative Norman Y. Mineta of San Jose, the first item of business was quickly approved: construction of a huge federal building in San Jose.

Mineta thus displayed the kind of political pragmatism which has taken him far. Still a junior member of the House, the Democratic ex-mayor of San Jose is combining charm, hard work and intelligence to make a formidable impression in the still somewhat tradition-bound House. He already serves on three prime committees: public works (with a plum subcommittee chairmanship), the budget committee and the intelligence committee. During his first term in the House, Mineta served as chairman of the freshman class, and he still is a leader of the loose alliance of newer House members.

Fellow congressmen point to him as a political comer, a possible future speaker of the House, or a U.S. senator or a major administration appointee. He has good connections within the Carter White House, if not with the California Brown Administration.

Unlike another ambitious Californian, Representative Phillip Burton of San Francisco, Mineta is not abrasive. Neither has he made the kind of enemies who have so far thwarted Burton. Instead, he has concentrated on making friends.

A cautious approach

"I don't make plans or set a goal," Mineta says. "I just take things as they come." He is cautious — some might even say calculating — in his approach to politics. But that caution may be explained by his heritage: As a Japanese-American, he has learned to take nothing for granted.

"I saw my father cry three times," Mineta recalls. "Once on seven December. Once on the train to Santa Anita and once when my mother died."

Seven December was, of course, December 7th, 1941. "He couldn't understand why Japan would attack the United States," Mineta says.

The train to Santa Anita was the train that carried

Gil Bailey has covered the Washington scene for the Long Beach, Pasadena and San Jose newspapers of the Knight-Ridder chain.

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Japanese-Americans from San Jose, and elsewhere, to camps where they were imprisoned during World War II. "I wore my Cub Scout uniform to the train. Some of my friends came to see me off," Mineta remembers.

Mineta spent much of World War II, with his mother, father and the other children, imprisoned as a "security risk." Today, as a member of the House intelligence committee, he shares some of the nation's deepest secrets.

Discrimination was a fact of life for young Mineta. His father, Kunisaburo (Kay) Mineta, came to the United States to work in the fields around Salinas. Eventually he started an insurance business and bought a home in San Jose, to which he could not hold title because of anti-Asian state legislation. The elder Mineta became a leader in the Japanese-American community in San Jose and a liaison between that community and the city leadership. However, his respected position in the community meant little when World War II came.

The family returned to San Jose on Thanksgiving Day, 1945. Their house had been saved through the efforts of the late J. B. Peckham, a San Jose attorney who acted as agent for many Japanese-Americans, but thousands of Japanese-Americans were not so lucky. And the elder Mineta had to struggle against anti-Japanese feelings to resume and build up his all-but-destroyed insurance business. He succeeded; his children went on to college. Son Norman graduated from the University of California and then served as an officer in the U.S. Army during the Korean War. Afterward he joined his father in the insurance business.

In the 1960s Mineta was appointed to a city commission, then to the city council, and finally became vice mayor. When Mayor Ronald James decided to retire, Mineta ran for mayor and won. He considered a congressional race in 1972 when Democratic Representative Don Edwards announced his retirement. However, when Edwards changed his mind and re-entered the race, Mineta quickly bowed out, along with five other possible candidates. In 1974 Mineta reportedly considered running against Republican Representative Charles Gubser of Gilroy, but decided against the race because he thought Gubser could not be defeated. Then Gubser announced his retirement and stuck with that decision.

Combing the records

Mineta did not take his luck for granted. He sent volunteers to the county registrar of voters to comb the voting records of the Gubser district, precinct by precinct. They spent three weeks tabulating voter response on the Fair Housing Act the George Murphy-John Tunney Senate race and recent presidential elections. Then the figures were run through a computer.

The results indicated that a Democrat could win the Gubser district. Only then did Mineta announce he would run. Waging a $180,000 campaign, he beat former Gilroy Assemblyman and Nixon Administration appointee George Milias with 53 percent of the vote. A good portion of Mineta's campaign funds came from Japanese-Americans throughout the nation. In the House Mineta has not forgotten his ancestry. He has pushed for benefits for Japanese-American adults imprisoned during World War II.

Building a political career has been a careful process. When Mineta ran for the House he was succeeded as mayor by Janet Gray Hayes. But when Hayes was later faced by a tough challenge from former San Jose police captain Bart Collins, Mineta never officially endorsed Hayes, a slight that still hurts the mayor. Unlike most other House members from his area, he still retains an active political organization at home.

In the House, Mineta is a leader of the pragmatic young Democrats, who are far less liberal than their Republican opponents would like to paint them. In fact, Mineta has on occasion joined in with Republican Representative Paul N. McCloskey Jr. to fight some Carter Administration proposals that would harm constituent interests. One was Carter's plan to enlarge the Renegotiation Board which has oversight on millions of dollars' worth of government contracts with private industry. It is not coincidental that Mineta's Santa Clara County district is a center for the electronics industry. The popularity of Mineta's stands on such issues is reflected in his campaign reports: David Packard of Hewlett-Packard, a former Nixon Administration appointee, is a Mineta contributor.

Mineta's campaign contributions also reflect his committee assignments and the belief among Washington lobbyists that he is a comer. A spring fund-raising cocktail party in the Democratic Club, near the House office buildings, filled an upstairs room to overflowing. "Norm has got about three times what most guys get," says one Washington lobbyist. Among the paying guests were airline lobbyists (Mineta serves on the airport subcommittee), a who's-who collection of California lobbyists, some oil-interest figures, a few Japanese-Americans — as well as Senator Alan Cranston and House Majority Leader Jim Wright. The take approached $20,000. Similar fund-raisers were held in San Jose and Los Angeles, so Mineta entered the fall campaign with plenty of funds.

The San Jose congressman did have a mild brush with the Korean scandal. On a trip to Korea he was offered and accepted some gambling chips with which he won a modest amount in a casino. He says, however, that he returned the chips without cashing them.

Home for dinner

There have been certain rewards for his move to Washington. "I see much more of him now than when he was mayor," says Mineta's wife May. Although Mineta spends at least one weekend out of every two in San Jose, he does come home nearly every night to his Virginia suburban house, his wife and two sons.

For the record, Mineta rules out any race for statewide office, saying the expense is prohibitive. But he is one of the few members of the California delegation with built-in fund-raising capability and a ready-made statewide organization among Japanese-Americans. In the next session, he may lead a move to elect the chairman of the California caucus, rather than appointing by seniority. The job is due to go to Representative John McFall of Manteca, a Democrat who has been damaged by charges that he took $4,000 from Tongsun Park. Mineta himself says he won't challenge McFall, but he suggests some other senior California Democrat, such as Representative Don Edwards of San Jose, might be an appropriate leader for the state caucus.

But clearly Mineta has his eyes set on the heights. He is looking for an opportunity and, in the past, when Mineta has looked, he has found one. It may be leadership in the House. Eventually it may be in the U.S. Senate. Norman Y. Mineta has come a long way from the young Cub Scout waiting for a train to take him to internment camp. He wants to go further.

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SIGNIFICANT COURT ACTIONS

Non-peremptory challenge

The state Supreme Court ruled, 5-2, that the peremptory (without reason) challenge may not be used to exclude prospective jurors from a trial solely on the ground of race, sex, religion or other "group bias."

In companion cases, *People v. Wheeler* and *People v. Johnson*, the prosecutor employed the no-reason challenge to exclude all Blacks from the jury. As a result, the Black defendants were tried by all-white juries. In writing the majority opinion, Justice Stanley Mosk emphasized: "The use of peremptory challenges to remove prospective jurors on the sole ground of group bias violates the right to trial by a jury drawn from a representative cross-section of the community . . ."

Mosk was joined by Chief Justice Rose Bird and Associate Justices Mathew Tobriner, Wiley Manuel and Frank Newman. Justice Frank Richardson wrote a dissenting opinion, joined by Justice William P. Clark. Richardson said it is axiomatic that when a lawyer strikes a juror from the panel the attorney "is not accountable for his decision to anyone." He expressed fear that trials will be extended as a result of this decision.

Goodbye, old M'Naghten

In a 4-3 decision, the state high court discarded the state's 114-year-old criminal insanity test and substituted a broader rule proposed by the American Law Institute.

Under the old rule, the so-called M'Naghten test, a court could find a defendant insane only if the person were found incapable of judging right from wrong. The new standard established by the court: "A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law."

Justice Tobriner, author of the majority decision, said the M'Naghten test was deficient because it failed to recognize that a person can know an act is wrong yet be incapable of preventing himself or herself from committing it. Tobriner was joined by Bird, Mosk and Newman. They said, in *People v. Drew*, that the court fashioned the M'Naghten rule in the first place and thus had an obligation to bring the criminal-insanity law up to date, as many other courts had done.

In dissent, Justices Richardson, Manuel and Clark said that such a major change in the law should be made by the Legislature, not the Supreme Court.

An inviolate contract

A retired Supreme Court justice sitting in the Solano County superior court ruled that the state's Proposition 13 bailout law banning pay raises for local public employees is unconstitutional.

Justice Louis Burke said the law, which makes local entities ineligible for bailout funds if they grant pay raises, is unconstitutional because it cancels legitimate contracts. He ruled in a case brought by 900 Solano County workers who had been denied a 7.3 percent raise under a two-year contract with the county.

The state Supreme Court has several similar cases under consideration.

Newsmakers

Reprimands and indictments

Three Democratic Congressmen from California — **John McFall, Edward Roybal** and **Charles Wilson** — were reprimanded by their colleagues for misconduct in the Korean influence-buying scandal. On a vote of 219-to-170, the House rejected a recommendation from its ethics committee that Roybal be given the more severe penalty of censure. The vote to reprimand Wilson was 329-to-41. The McFall reprimand came on a voice vote . . . An administrative aide and a former law associate of State Senator **Alfred Song** pleaded innocent to 14 counts of perjury stemming from a federal grand jury investigation of corruption in state politics. **Leonard E. Moreno,** field representative for Song, and **Louis Berger,** a former law associate, were indicted for allegedly lying in response to questions about Song's financial activities.

David L. Rosen was relieved of his duties as presiding state worker's compensation judge in Los Angeles for insisting that case files be open to the public. **Franklin O. Grady,** head of the state Department of Industrial Relations, first suspended Rosen, then ordered him back to work as a member of a panel of judges . . . Dead: At 66, **James Bassett,** one-time political analyst for the *Los Angeles Times;* at 64, **Earl Strathman,** former Alameda County administrator . . . **Gene Rhodes,** first elected mayor of Fremont, was charged with a 14-count civil complaint alleging that he failed to disclose financial holdings in violation of the Political Reform Act of 1974.

This month's special insert

Contained inside this month's *California Journal* is the premier issue of a new publication, Tax Revolt Digest, a monthly newsletter analyzing the implementation and impact of Proposition 13 and similar measures in other states.

The Digest, published by the *Journal's* parent organization, the California Center for Research and Education in Government, will *not* be included in future issues of this magazine. Tax Revolt Digest will hereafter be available only to paid subscribers at the rate of $15 for 12 monthly issues plus six special reports.

Subscription information and a mail-in coupon are contained on page 5 of the Digest.

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Tax Revolt Digest

NEWS AND ANALYSIS

NOVEMBER 1978

Why this publication?

Tax reform is not new in the United States, but the passage of Proposition 13 in California has escalated interest in such efforts. In the year ahead, there will be dozens of efforts to change and limit taxation and spending all across the nation.

Tax Revolt Digest is founded to meet the need for objective, insightful reporting and analysis of what has become a significant movement. The **Digest** is published by the California Center for Research and Education in Government, publisher of the nine-year-old, non-partisan **California Journal**. The focus of the **Digest** is a national audience:

- Citizens who want to understand the impact of Proposition 13 in California and to assess the potential impact of similar proposals in their states;
- Experts who need to study and report on the subject;
- Public officials who are being called on to respond to the revolt.

Subjects to be covered in this and future editions of the **Digest** include progress reports on the tax revolt in all 50 states, detailed analysis of the impact of Proposition 13 as it is implemented in California, political repercussions of the tax revolt, court decisions on challenges to the changes, research underway and the results of such research as they become available, and the impact on such groups as public employees, business, agriculture and ecologists.

Tax Revolt Digest is written and edited by the same staff that has made **California Journal** a model for state-government reporting. Research for the **Digest** will be drawn from academic, business and government experts and from the staff of a Center-sponsored research project funded by the Ford Foundation.

The **Digest** will be published monthly with a minimum of six special supplements per year. The subscription price is $15 per year. Turn to page 5 for details on how to subscribe.

The post-13 barrage of new local levies

In Culver City, the tax on a resident's utility bill is now 14 percent.
In Sacramento, there is now a new admissions tax on concerts and sporting events.
In La Mesa, the cost of a sewer connection is rising 1200 percent.
In Los Angeles, it now costs more to license a dog.
Throughout California, the cost of doing business with local government has increased markedly. In an effort to offset losses in property-tax revenue from Proposition 13, cities and counties have increased numerous existing fees and taxes and have instituted many new ones.

Most of these increases were enacted between June 6th, when Proposition 13 was passed, and July 1st, when it went into effect. Since July 1st, a two-thirds vote of the people has been required to levy any new or additional tax. After the Legislature passed its $4 billion local-assistance measure, some communities rescinded some increases or delayed their collection.

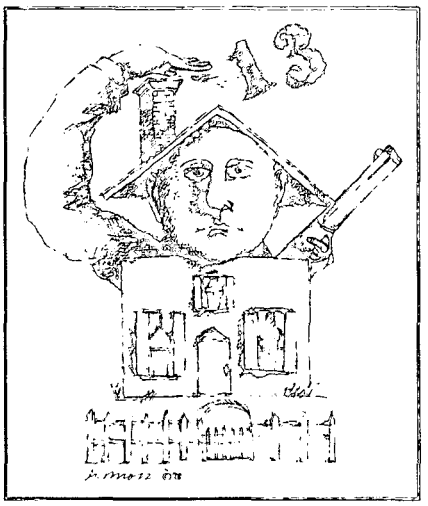
New building fees

A survey by the California Taxpayers Association indicates a major part of the new and increased fees are aimed at the construction industry. New or bigger business license taxes and utility user taxes also are common, as are increased park and recreation fees.

Some examples:

- **Beverly Hills** picked up $3.1 million in annual revenue by increasing business license taxes for retailers, wholesalers, manufacturers and residential and commercial rental properties.
- **Culver City** increased its utility users tax from 8 percent to 14 percent in an effort to pick up $1.3 million.
- **Sacramento** adopted new taxes and increased existing levies to raise about $4 million of additional revenue. The Sacramento City Council imposed a new 5 percent entertainment tax on concerts and outdoor sporting events; adopted a new real property transfer tax of one-fourth of 1 percent; adopted a street construction

(Continued on page 7)



The roots of Prop. 13

Measures generally regarded as the sons and daughters of California's Proposition 13 will be on the ballot in 11 states this November.

Actually, the tax revolt didn't start in California. And even within the state, there have been several previous attempts to slash taxes via the initiative. But Howard Jarvis and Paul Gann are getting the credit or blame, because the California vote in June was so dramatic. Also, the national media have created the expectation that nearly everything big and new in America will carry a launched-in-California label.

The facts:

Ohio's Legislature placed a ceiling on property tax increases almost 50 years

(Continued on page 3)

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WITH FOUR JUDGES ON THE BALLOT

The court ruling: constitutional on all counts

The California Supreme Court may have ruled that Proposition 13 is constitutional, but the legal conflict over the measure is far from over. In its historic September 22nd decision, the court itself said that there were several significant legal points yet to be decided. And it is entirely possible that one aspect of the decision will be appealed to the United States Supreme Court.

The state Supreme Court action was surprising in a number of respects:

- **The decision** was handed down only six weeks after the court heard oral arguments in the complex case. It would not have been unusual for the seven justices to have spent many months mulling over the issues before reaching a conclusion.
- **The ruling** was unanimous, with one partial dissent. It is rare for the California court to act as a bloc on a case as controversial and as revolutionary as this one.
- **The decision** upheld an initiative in its entirety (pending future rulings). In the past 20 years, the court has repeatedly knocked down initiatives in whole or in part.
- **The court** acted well before the November 7th state election, evidence that perhaps the realities of current politics were a factor in the timing of the decision. Four justices, three of them appointed by Governor Jerry Brown, will have their names on the ballot for 12-year extensions of their terms or for removal from the bench. The decision will help them keep their jobs.

Resolving doubts

The court's 62-page decision was written by Justice Frank Richardson, an appointee of Republican Ronald Reagan and one of the four facing the voters this November. Richardson wrote that the proposition "survives each of the serious and substantial attacks" made against it. He added: "If doubts reasonably can be resolved in favor of the initiative, we should so resolve them."

There were four major issues before the court: Was the ballot measure an illegal revision of the state constitution, rather than a simple amendment? Did Proposition 13 cover more than one subject, as prohibited by the state Constitution? Because it based property assessments on 1975 values except for those persons buying property after that year's assessment date, did the measure violate the equal-protection clause of the United States Constitution? Did Proposition 13 impair contractual relations between employee organizations and public agencies?

The court chose to avoid the contract issue on the grounds that it did not have a case of alleged impairment before it. The justices were unanimous in their view that the Jarvis-Gann initiative was an amendment to the constitution covering only one subject.

Chief Justice Rose Elizabeth Bird disagreed with her colleagues on the equal-protection issue. She said that this issue "troubles me deeply. Under Article XIIIA (Proposition 13) property taxpayers are not treated equally, and those sections which promote this disparity must fall." The other six justices said there is no legal reason why two identical parcels purchased at different times cannot be taxed differently.

Free to implement

Because a federal constitutional issue is involved, this portion of the ruling can be appealed to the United States Supreme Court.

Chief Justice Bird

Meanwhile, state and local government officials are now free to implement the Jarvis-Gann plan fully — without the uncertainty of constitutionality hanging over their heads.

The decision also provided a large measure of relief for a variety of politicians, starting with Governor Brown, who appointed three of the seven members of the court. Had the justices handed down an anti-13 ruling, Brown's stock would have plummeted and California would have been thrown into a state of political chaos.

A verdict of unconstitutionality would have hit Chief Justice Bird especially hard. She is already under attack from two groups made up mostly of conservative Republicans who consider her too liberal. The court's decision — especially since she went along with the majority on most points — will help insulate her from attack. The three other justices on the ballot — Richardson, Frank Newman and Wiley Manuel — are now probably in the clear, unless there is an overall anti-incumbent or anti-judge atmosphere at election time.

In her "concurring and dissenting opinion," Chief Justice Bird recognized the political mood that surrounded the court's deliberations. She wrote: "This decision has not been an easy one. The issues are close and reasonable people may differ. Emotions run high on this question, but as judges we must follow the law and do what it requires."

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TAX REVOLT DIGEST is a non-partisan report and analysis of the aftermath of the passage of Proposition 13, the Jarvis-Gann initiative, on the June 1978 California ballot. Funded by The Ford Foundation, the digest is designed to help individuals and organizations throughout the United States comprehend the ramifications of the tax-revolt phenomenon.

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Jarvis plans on the ballot in 11 states

The roll call of states with November ballot measures springing from California's Proposition 13:

Alabama — Provides property-tax relief; placed on the ballot by the Legislature.

Arizona — Limits state spending to 7 percent of the state's personal income; placed on the ballot by the Legislature.

Colorado — Links government spending to the cost of living; placed on the ballot by initiative.

Michigan — Two constitutional amendments; both placed on the ballot by initiative. One would freeze state spending at a percentage of personal income. The other would reduce property taxes 50 percent, limit annual assessment increases to 2.5 percent and place a 5.6 percent limit on the state income tax.

Idaho — Limits property taxes to one percent of value; placed on the ballot by initiative.

Nebraska — Places a five percent limit on annual increases in local-government spending; placed on the ballot by initiative.

Nevada — Almost identical to Proposition 13; placed on the ballot by initiative. (Must be approved twice by voters to go into effect.)

North Dakota — Reduces the state income tax by altering the brackets; placed on the ballot by initiative.

Oregon — Similar to Proposition 13 (except that the tax limit would be 1.5 percent of market value); placed on the ballot by initiative.

South Dakota — Requires a two-thirds vote of the Legislature to raise taxes; placed on the ballot by the Legislature.

Texas — Provides $500 million in property-tax relief and imposes a spending limitation tied to the state's economy; placed on the ballot by the Legislature.

Source: The Council of State Governments.

The roots of Prop. 13

(Continued from page 1)

ago. Since 1970, five states — Alaska, Indiana, Kansas, Washington and Wisconsin -- have enacted various tax limits. New Jersey, Colorado, Michigan and Tennessee have passed spending-limitation measures. All of these came before the Proposition 13 vote in June of 1978.

A recycled restriction

Within California, the basic outline of the Jarvis plan — a restriction of property taxes to one percent of value — appeared on the ballot on two earlier occasions, under the sponsorship of Phil Watson, then-assessor of Los Angeles County. Watson, not Jarvis, is the true father of Proposition 13. Just five years ago, California voters rejected a spending-limitation initiative sponsored by then-Governor Ronald Reagan.

(The placement of economic reform measures on the California ballot has a long history. Among other schemes: the Townsend Plan, Ham 'n' Eggs, Upton Sinclair's End Poverty in California (EPIC) and a pension scheme sponsored by George McLain. All of these proposals were defeated except McLain's 1948 effort. His plan even placed in the state constitution a requirement that an associate of his named Myrtle Williams be designated as state director of social welfare. The McLain initiative was repealed by the voters the following year).

Despite such precedents, Howard Jarvis is getting credit for being the catalyst in the nationwide tax revolt. He is now directing his boundless energy toward a massive cut in federal spending. His "freedom for taxpayers" proposal calls for a 5% cut in the federal budget for each of the next four years, a 25% income tax slash and a reduction in the tax on capital gains from 48% to 15%. He is finding his federal efforts much more difficult than his campaign in California because he doesn't have the initiative process with which to threaten Congress or to employ if Congress fails to act.

The state-level impact

The Jarvis impact is apt to be much greater at the state level than in Washington. Already, Governor Mike Dukakis of Massachusetts has felt the sting of the tax revolt. He was defeated by a Proposition 13 candidate, Edward J. King, in the Democratic primary in September.

And there are 21 states which have some sort of initiative process to place measures on the ballot. Sixteen of these, including California, allow voters to alter their state constitutions without legislative approval, according to the Council of State Governments. It is in these states that the tax reform movement is taking hold very rapidly.

It is generally believed that California, under Progressive Governor Hiram Johnson, invented the initiative in 1911. That's another one of those myths about California: Johnson actually picked up the notion from his fellow progressives in Nebraska.

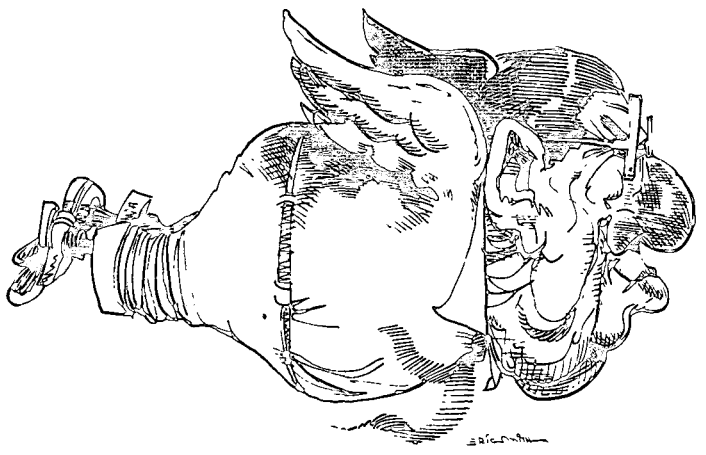

Illustration by Eric Smith for Potomac Journal

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Alan Post's commission — a search for consensus

Governor Brown chose an address on statewide television to announce formation of a blue-ribbon commission. Its purpose: to recommend long-term solutions to the problems posed by Proposition 13.

Created by executive order, the commission is charged with recommending permanent reforms in tax, revenue and spending for state and local governments. Its report is due to the governor and the Legislature by January 15th, 1979.

As chairman, Governor Brown appointed A. Alan Post, formerly the state's non-partisan legislative analyst for almost 30 years. Post, who retired late last year, has since been involved in teaching and consulting. His reputation for independent, non-partisan work — plus his knowledge of government financing — made him a natural choice. As legislative analyst, Post oversaw a staff of about 50 persons who prepare estimates of dollars-and-cents impact of all bills heard by the Legislature's two fiscal committees. The analyst's office also annually critiques the governor's budget in a 1,000-page document — suggesting cuts, assessing the performance of all state departments, judging the effectiveness of their programs.

A. Alan Post

With a January reporting deadline, the commission quickly went to work. By the end of July, a 44-page outline had been developed, covering four major areas that will be addressed by the commission:

- The effects and opportunities afforded by Proposition 13.
- Tax systems of state and local government.
- Expenditures of state and local government.
- Organization of state and local government.

Within these four areas, 57 separate study projects are underway. Examples: the effect of Proposition 13 on outstanding municipal bonds and on the market for prospective issues; the responsiveness of major taxes and user fees to growth and inflation; the provision of public services by the private sector; the examination of possible fees or charges to make specific programs more nearly self-supporting.

Commission staffing is being kept to a minimum. Heading the team is Ed Beach, chief deputy director of the Department of Finance, who will continue at Finance while working with the commission. Each project has been assigned to a volunteer task force, composed of individuals with varying public and private interests and perspectives. Participants include representatives from cities, counties, special districts, school boards, taxpayers, public employee unions, state departments, low-income groups, minorities, legal aid societies and private businesses.

Diversity and consensus

What can be expected to come from the commission? Because of its diverse membership, consensus may be difficult to achieve. One of the first issues debated: whether to hold future meetings in closed or open session. Post is concerned that open meetings might result in lengthy debates, causing the commission to miss its January deadline. Also, he says, open meetings might inhibit commission members from asking tough questions or expressing their opinions freely. Generally, commission liberals want open meetings; conservative members have sided with Post. Their next meeting, November 10th in Sacramento, will be open to the public. Beyond that, no firm decision has been made.

There is one key factor that makes this commission different from dozens of other advisory bodies: Proposition 13 has created a climate that permits serious consideration of major change and substantive reform. Already Post has suggested that the state consider buying out local government's support of schools, welfare and the courts.

The commission is unusually free to question and examine anything it desires. The overlapping, duplicative layers of government, for example, have been criticized for years, but serious public discussion about consolidation has been politically unfeasible before. Now it may be acceptable.

But can commission members make enough compromises to accommodate their differing views and still recommend substantive reform? It appears likely that they will issue a final report with numerous majority and minority positions and recommendations.

And since their report is only advisory, any substantive changes will require legislation. If the governor supports bills enacting the majority's ideas, his political opponents will probably introduce legislation embracing the minority's views.

So the passage of Proposition 13 was only Round 1. The commission's report early next year may well open Round 2.

The Post panel:

When Governor Brown appointed members of the Commission on Government Reform, he was seeking a balance of liberals and conservatives, supporters and opponents of Proposition 13. The commissioners include:

Mayor Tom Bradley of Los Angeles.

Publisher Helen Copley of the *San Diego Union and Tribune.*

Labor leader John Henning of the California Labor Federation, AFL-CIO.

Fred Heringer, president of the California Farm Bureau Federation.

Conservative UCLA economist Neal Jacoby.

Appellate Justice Cruz Reynoso, former director of California Rural Legal Assistance.

Wilson Riles, state superintendent of public instruction.

William Matson Roth, businessman and a 1974 Brown gubernatorial opponent.

Nathan Shapell, businessman and chairman of the Commission on Government Organization and Economy, known as the Little Hoover Commission.

Rocco Siciliano, business executive of Ticor, the parent corporation of Title Insurance and Trust Company and other financial firms.

Caspar Weinberger, former secretary of the U.S. Department of Health, Education and Welfare and former director of the California Department of Finance under Governor Ronald Reagan.

Darlene Daniel, member of the board of directors, California League of Women Voters.

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Layoff count

Despite pre-election predictions of massive public employee layoffs, only about 9,000 public employees have lost their jobs so far as a result of Proposition 13. According to the California Employment Development Department, the figure includes about 7,300 persons who have been laid off by cities, counties or special districts and 11,700 school district employees who were notified they would not be rehired when schools reopened this fall. There are about 1.1 million persons in California's school and local government labor forces.

Prop. 13 casualty reports: much lighter than predicted

Compared to the predictions, the Proposition 13 casualty reports are quite light. There have been no massive layoffs of public employees or drastic cutbacks in governmental services in California. This is because the Legislature gave local government $4 billion out of an embarrasingly large state surplus and because some entities were able to enact a variety of tax and fee increases to make up a portion of property-tax losses.

The rundown:

• **State government.** State employees received no cost-of-living pay increases this year. Welfare recipients — including the aged, blind and disabled — also received no state-paid cost-of-living increases. The Governor has frozen hiring, and the current state budget is lower than the previous year's for the first time in 17 years.

• **Cities and counties.** These levels of government are generally within 10 percent of where they would have been had Proposition 13 not passed. In some instances, budgets are close to what they were last year. Common economy moves include bans on cost-of-living increases, hiring

(Continued on page 7)

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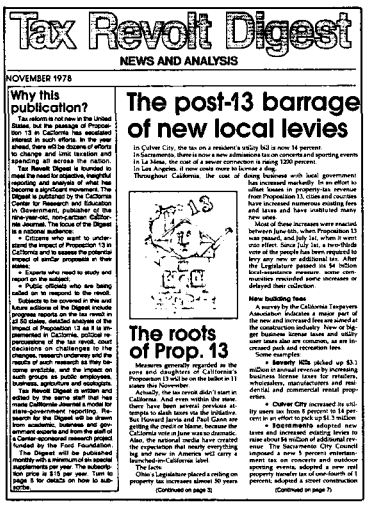
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How do renters spell relief?

Renters in California have yet to receive much relief as a result of the passage of Proposition 13. The measure contained no requirement that landlords pass along all or part of any property tax savings to their tenants. Before the June election, Howard Jarvis stated that landlords would voluntarily share their savings with tenants. After the election, it appeared that few landlords were reducing rents and some landlords were even increasing them.

In July, Governor Brown said he was opposed to any legislatively mandated freeze or rollback of rents. Instead he urged landlords to roll back and freeze rents voluntarily at pre-election levels and to share their savings through a rebate of one-half of December's rent, or a prolonged rent freeze. Brown indicated that landlords' failure to share property tax savings with renters would inevitably result in local and state rent controls being enacted.

Landlords responded that they would not know actual property tax savings until tax bills are sent in December. Such savings, they alleged, will be offset by fee increases imposed by local governments in an effort to raise additional revenues. Also, landlord groups claim that their property tax savings will be offset by higher federal taxes, because reduced state property taxes will mean lower deductions for them on federal income tax returns.

Hotline to the Governor

As part of his push for voluntary landlord compliance, Governor Brown set up in his office a renters' hotline, so tenants could phone in to report post-Proposition 13 rent increases. Staffers from the State Department of Consumer Affairs and rental industry representatives then contacted individual landlords in an effort to get them to roll back increases and share property tax savings with renters. Even the Governor conceded after a few days that the results were minimal.

When it became evident that rents were not being lowered, Governor Brown threw his weight behind a bill moving through the Legislature. That bill would have required landlords to roll back rents to May 31st, 1978 levels, beginning in January 1979, and to further reduce rents by at least 80 percent of the gross savings under Proposition 13. In an effort to obtain the bill's passage, the bill was amended to allow landlords to raise rents any time after January 1979, providing the tenant was given an explanation for the increase. The bill cleared the Assembly but was defeated 12 to 21 in the Senate.

Meanwhile, the city councils of Los Angeles and El Monte have already enacted rent ordinances. In El Monte, the city council enacted an ordinance July 28th, effective July 29th, that froze all residential rents from July 29th to December 31st, 1978. The El Monte ordinance did not require that any property tax savings be passed along to renters. In Los Angeles, the city council voted 11 to 1 in late August to require rents to be rolled back and frozen at May 31st, 1978, levels for the period from October 1st, 1978, to March 31st, 1979.

The Los Angeles ordinance permits rents to be raised in three instances:

- when a tenant voluntarily leaves a unit;
- when improvements are made as a result of building and safety code violation citations;
- when specified capital improvements are made.

Unlike the state legislation that failed, neither local ordinance requires landlords to share all or part of property tax savings with their tenants.

Into the courts

The first legal challenge to the city's rent rollback-freeze was filed in Los Angeles superior court on September 7th, on behalf of five apartment owner partnerships in the San Fernando Valley. The suit alleged that the rent ordinance was unconstitutional because it deprived landlords of their property without due process of law. The suit further alleged that the ordinance was "unconstitutionally confiscatory" because it imposed rent ceilings without a mechanism for providing adjustments in the rents allowed. On September 22nd, a superior court judge denied the petition for a preliminary injunction blocking the ordinance's implementation. The judge agreed with the city's argument that the constitutional rights of the landlords were not damaged as the freeze expires within six months. The LA city council is in the process of studying whether to enact more lasting controls.

In addition to the El Monte and Los Angeles ordinances, rent control measures will confront voters in the cities of Berkeley, Davis, Palo Alto and San Francisco on the November ballot. Generally, the various initiatives require that rents be rolled back to June 6th levels and be further reduced by 80 to 100 percent of the property tax savings resulting from the passage of Proposition 13.

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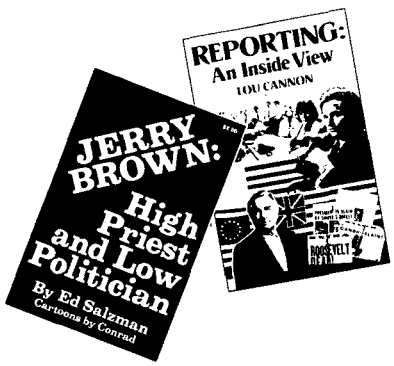

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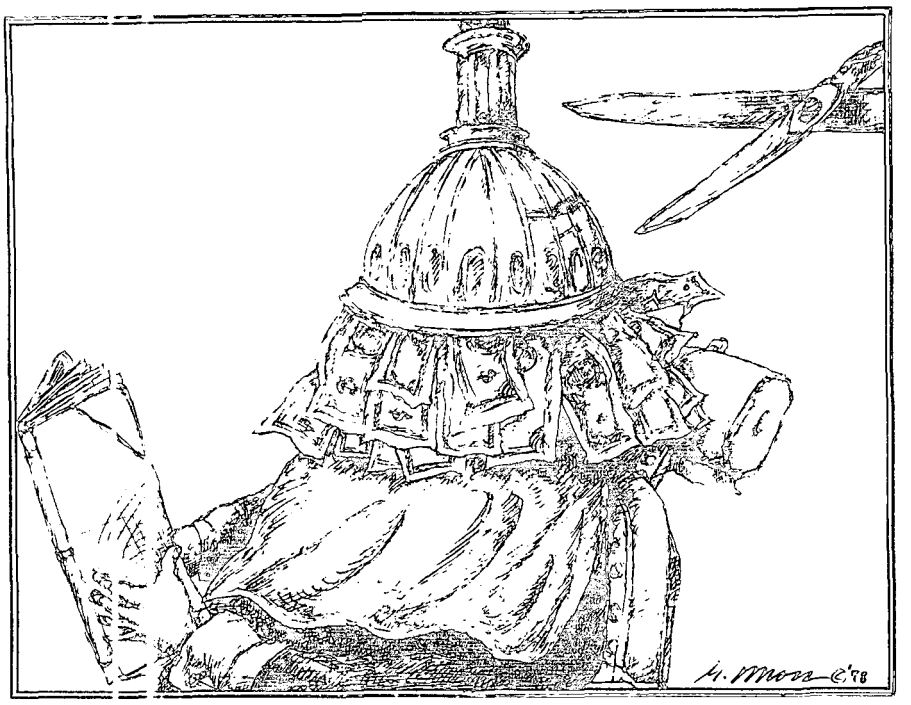

The barrage of new levies

(Continued from page 1)

tax of 1 percent of the construction cost of new buildings; increased the transiency occupancy tax (on hotel room charges) from 7 to 10 percent and adopted a park development tax on residential construction, based on the number of bedrooms.

Fee increases — not limited by Proposition 13 — have been adopted in many cities and counties to make certain services self-supporting or as nearly self-supporting as possible. The city of Los Angeles increased dog license fees to collect about $500,000; it hiked charges for building and safety inspections to raise another $1.8 million. Collection of a residential sewer service charge was moved up from January 1979 to July 1978, adding $2 million this year.

Other increases adopted by many localities: parking fees at parks, swimming pool fees, golf course fees, museum and zoo fees, and on-street and off-street parking charges.

School charges, too

Elementary, high school and community college districts are instituting or raising charges for services and for the use of facilities. A recent survey by the *Los Angeles Times* of 70 school districts and community college systems in Southern California showed that new or increased fees have been imposed or are under consideration in at least half the districts. Affected are community use of school facilities including swimming pools, racquetball courts, playing fields and classrooms for night meetings, adult education, vocational education, public lectures and student health services. Some Northern California school districts have begun charging school bus fares ranging from 15 cents to $1 a day.

A California Building Industry Association report says scores of increased or new fees have been imposed for zoning changes, sewer connections, building plan checks, water connections, filing and processing of subdivision maps, building permits, parcel maps and development permits. For example, the city of Oceanside in San Diego County increased the fee-per-zone-change from $300 to $1,000, the fee-per-conditional-use-permit from $150 to $300 and the fee-per-general-plan-amendment from $300 to $1,000. A sewer connection in La Mesa, San Diego County, will now cost $300, up from $25.

The mavericks

Some 199 California cities and counties will not receive bail-out funds from the state surplus because they violated one of the conditions set down by the state Legislature, according to State Controller Ken Cory. The violations include: payment of salary increases, the holding of excessive cash reserves, failure to file the proper forms, receipt of more welfare aid from the state than the total property-tax loss.

Casualty list

(Continued from page 5)

freezes, leaving vacant positions unfilled, eliminating or sharply cutting capital improvements and reducing operating expenses.

• **Community colleges.** These districts received funding equivalent to 85 percent of what they received last year. The first community college casualty was summer school. Most districts canceled summer programs completely or reduced the class offerings. As a result of similar class cuts for the fall semester, enrollment appeared to be dropping. In Northern California colleges, enrollments were down 10 to 15 percent.

• **School districts.** These were particularly hard hit by Proposition 13, but they fared well under the bail-out legislation. According to the California Department of Education, the kindergarten-through-12th grade programs got about a 10 percent cut from their original 1978-79 budgets. Before Proposition 13, school budgets totaled $7.8 billion — $3 billion from the state and $4.8 billion from property taxes. After Proposition 13, the total is down to $7 billion — $5 billion from the state and $2 billion from property taxes. Summer school was canceled or sharply curtailed in many districts. Other economy moves included reductions in staff, supplies, field trips, athletic programs, maintenance, adult education and conferences. Many district administrators were reassigned to classrooms.

• **Special districts.** These are not in as good financial shape as are the schools, cities and counties. In California, about 4,700 special districts have been established to provide such disparate services as public transit, waste disposal, water supply, mosquito control, fire protection, libraries, parking and port and harbor facilities. Some districts charge fees for their services while others rely largely on taxes levied. The bail-out legislation for local governments included $125 million for special districts, but it required that fire districts have first call on the funds. As a result, fire districts took most of the original appropriation to prevent major cutbacks in their services. The state Legislature adjourned without enacting additional legislation that would have granted $125 million more to special districts. Without the infusion of more funds this year, special districts may have to lay off personnel.

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CALL HIM JERRY JARVIS

How Brown turned 13 into a political asset

What effect has Proposition 13 had on the California gubernatorial race between the incumbent, Democrat Edmund G. Brown Jr., and the challenger, Republican Attorney General Evelle J. Younger?

It has done nothing less than turn the race around — and not at all the way anyone might have anticipated.

During the pre-primary campaign, Brown opposed the Jarvis-Gann initiative vigorously — at least until it became obvious that the measure would pass. Younger announced that he would vote for it, although his endorsement was less than enthusiastic.

The polls showed that at the time of the primary election, June 6th, Brown and Younger were in a virtual dead heat. A Los Angeles television station asked voters on that day whether they favored Brown or Younger, and the Attorney General came away with a four-percent lead.

Going to work

Immediately after the primary, however, Jerry Brown went to work implementing Proposition 13 as though it had been his idea in the first place — so much so that he was nicknamed "Jerry Jarvis." He cut the state budget significantly. He proposed ways that surplus state funds be used to relieve the burden of schools, cities, counties and special districts. He endorsed a general proposal for expenditure limits applying to both state and local government. He took a hard line against government employee pay raises. His efforts were praised by the authors of the proposition, Howard Jarvis and Paul Gann.

'Jerry Jarvis'

Brown could be seen on television almost every night after the primary, tackling some aspect of Proposition 13 implementation. State employees massed on the lawn outside the Capitol to castigate the Governor for his stand against any pay raise. The Governor could hardly have choreographed a more beneficial campaign event.

The Governor was seen by some as an opportunist who was reversing his field in an effort to woo the voters. Brown said he was doing his job: carrying out the mandate of the people.

Meanwhile, Younger was vacationing in Hawaii. And upon his return, the Attorney General checked into a hospital for removal of kidney stones. He apparently never imagined that the election might be won or lost during the month of June instead of in the traditional campaign months of September and October.

The public perception

The result of Brown's bold moves and Younger's inactivity: The public viewed Brown, not Younger, as the candidate most likely to carry out the intent of Proposition 13. The polls showed that citizens identified Brown, who had opposed the measure, more closely with the tax revolt than Younger, who had supported it.

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How political was the court's decision on PROPOSITION 13?

THE DOCTRINE OF ACQUISITION VALUE

By Ed Salzman

Chief Justice Rose Elizabeth Bird opened her "concurring and dissenting" opinion in the landmark Proposition 13 constitutionality case with this scenario:

"John and Mary Smith live next door to Tom and Sue Jones. Their houses and lots are identical with current market values of $80,000. The Smiths bought their home in January of 1975 when the market value was $40,000. The Joneses bought their home in 1977 when the market value was $60,000. In 1977, both homes were assessed at $60,000, and both couples paid the same amount of property tax. However, under article XIIIA (Proposition 13) in 1978, the Joneses will pay 150 percent of the taxes that the Smiths will pay. Should a third couple buy the Smiths' home in 1978, that couple would pay twice the taxes that the Smiths would have paid for the *same* home had they not sold it."

Then Bird attacked the "irrationality" of the finding by all six of her colleagues that such disparity is equitable and does not violate the equal-protection clause of the Constitution. She could have gone much further with her hypothetical cases. Look ahead to the year 2000. Under Proposition 13, those who bought houses for $40,000 in 1975 will have tax bills based on assessments in the vicinity of $60,000. But if inflation in the housing market continues, those same houses could well be worth $250,000. (Actually, if home values keep rising at the rate of 10 percent a year, the price could be $400,000 by the turn of the century.) This means that new owners at that time would be paying many times more in taxes than those with identical homes that happened to have been purchased many years earlier. The disparity could be enormous.

After the June election, lawyers examining Proposition 13 generally agreed that the most vulnerable provision in the measure was the one basing assessments on 1975 levels, with a maximum increase thereafter of two percent a year — except for those parcels changing hands. In fact, many lawyers were predicting that this provision would be found unconstitutional — despite the political tenor of the times.

No one will ever know how large a role politics played in the state Supreme Court's decision upholding Proposition 13 on all major counts. Four of the justices, including Bird, were facing the voters at the November election. There were predictions that the court would withhold a decision until after the election to avoid any adverse impact from a decision. But the court accelerated the hearing process, and it turned out that Bird was the only one with anything to lose from the decision.

The dissent's effect

The Chief Justice recognized the political factor in the closing paragraph of her opinion: "This decision has not been an easy one. The issues are close and reasonable people may differ. Emotions run high on this question, but as judges we must follow the law and do what it requires . . ."

What effect did Bird's partial dissent have on the campaign on the part of conservatives to remove her from the bench via the ballot box? Bird's friends thought that her dissent on the equal-protection issue would be devastating to her chances for winning the approval of the electorate. But as it turned out, the media emphasized the unanimity of the decision and did not focus upon her partial dissent.

Two other Supreme Court cases — the *Caudillo* rape decision and the Los Angeles busing ruling — were much more evident in the campaign against Bird.

In the Proposition 13 case *(Amador Valley Joint Union High School District et al v. State Board of Equalization et al)*, Bird agreed with her colleagues on a variety of points — that the measure was an amendment rather than a revision of the state constitution, that it did not violate the one-subject rule, that it did not curtail the right to travel and that there are some issues, including impairment of contracts, that are not yet ripe for decision.

In years to come, it is probably the equal-protection issue that will be the most difficult for the courts to handle. First, there is the possibility of an appeal to the United States Supreme Court. Then there is the possibility that the issue will be returned to the state court as the disparity between

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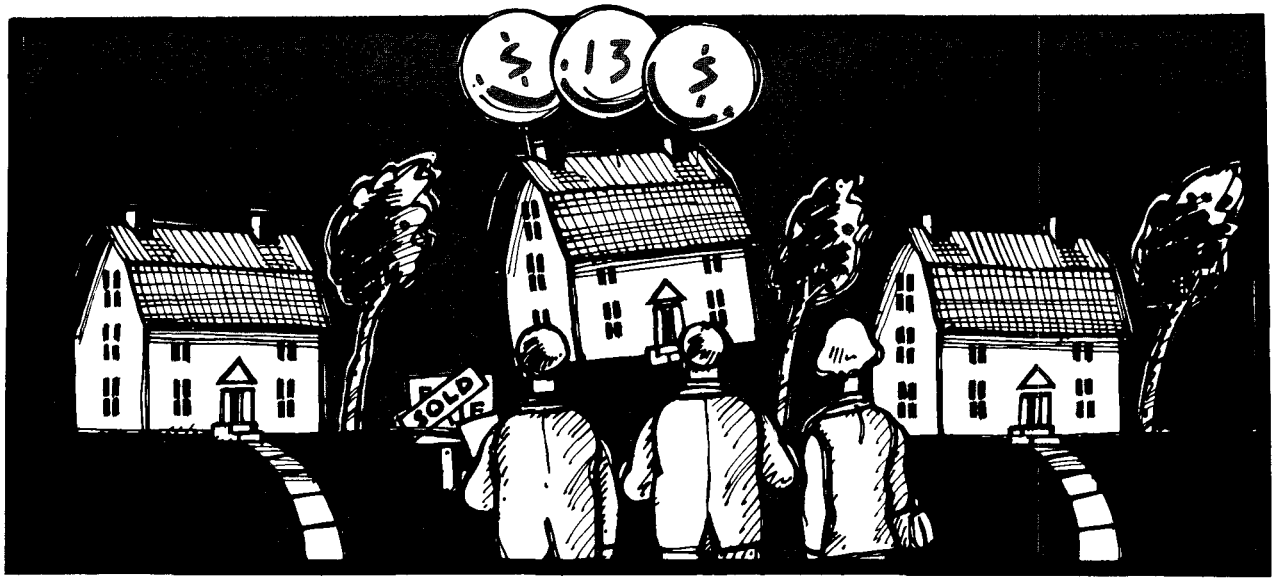

ILLUSTRATION BY DONNA RIVERS

taxation of citizens becomes greater. Third, the court itself recognized that it will have to cope in the future with such questions as involuntary changes in ownership and new construction.

No 'iron rule'

The majority decision, written by Associate Justice Frank Richardson (a clear writer who disdains the use of footnotes), took this line of reasoning on the assessment-date issue: The federal Supreme Court has granted states wide latitude in the enforcement and interpretation of their tax laws. That latitude extends to the granting of partial or total exemptions on policy grounds. There exists no "iron rule" of equality. Proposition 13, the court explained, abolishes the traditional current-value method of taxation and substitutes an "acquisition value" approach to taxation. This approach, said Richardson, is based on the theory that the annual taxes which a property owner must pay should bear some rational relationship to the original cost of the property, rather than relate to an "unforeseen, perhaps unduly inflated, current value."

The court majority felt that the acquisition-value system not only allows citizens to estimate future liability with some assurance but actually may be fairer than the traditional current-value system. Richardson cites the case of a taxpayer buying a $40,000 piece of property in 1975. "His future taxes may be said reasonably to reflect the price he was originally willing and able to pay for his property, rather than an inflated value fixed, after acquisition, in part on the basis of sales to third parties over which sales he can exercise no control," the justice wrote. Another person paying $80,000 for a similar parcel in 1977 would be taxed on the price he was willing and able to pay for the property. Thus, Richardson concluded, Proposition 13 does not discriminate against persons purchasing property after 1975 "for those persons are assessed and taxed in precisely the same manner as those who purchased in 1975, namely on an acquisition value basis predicted on the owner's free and voluntary acts of purchase. This is an arguably reasonable basis for assessment."

Promoting disparity

Richardson also pointed out that there is nothing novel about two taxpayers paying different amounts of taxes for substantially identical properties. The sales tax, he said, can vary substantially on an item, depending on the sales price, discount and time purchased. The majority opinion devoted eight pages to the 1975 rollback provision, while Bird's "concurring and dissenting" opinion on that issue was twice as long.

Bird said the equal-protection issue "troubles me deeply . . . Property taxpayers are not treated equally, and those sections which promote this disparity must fall." Her arguments:

- Proposition 13 would create an "irrational tax world" and impose artificial distinctions upon equally situated property owners.
- The 1975 ownership provision makes it literally impossible for persons purchasing property in 1978 or thereafter to qualify for benefits granted fully to pre-1975 owners and thus transgresses the constitutional guarantee of equal protection under the law.
- The fact that the former property tax system allowed inequalities through exemptions for charitable, religious, non-profit and educational institutions does not solve the question raised here. Those exemptions benefitted the general public, but no one has established any general public benefits from systematic undervaluation of some properties.

The campaign isn't over 'til the last report is filed

If you are somehow involved in a political campaign this year, you may be surprised to learn that the election won't be over until next January 31st. That's the deadline for the filing of the last contribution-and-expense-statements with state and local officials.

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• 'As the years go by, the skewed nature of the tax world created by article XIIIA (Proposition 13) will become even more pronounced as each successive generation of purchasers will have their property overvalued in comparison to their neighbors' or predecessor owner's . . . Consider the condominium complex where each unit, though of identical fair market value, receives a different tax assessment simply because it was purchased in a different year . . . Consider the plight of the military family required by circumstances to change residence periodically . . . Consider further the plight of the family which 'newly constructs' their house after a natural disaster such as a fire or flood . . . What is the possible rationale for allowing natural disasters to trigger an increase in property tax obligations? . . . Consider the reassessment to current market value . . . for 'changes in ownership' brought about by divorce or death. Did those who voted so overwhelmingly for article XIIIA's general tax relief also intend to penalize those families who experience such family crisis?" (Bird pointed out in a footnote that the Legislature attempted to remedy the disaster problem through Proposition 8 on the November ballot.)

• The fact that a purchaser now pays more for a home than someone did in 1975 "may tell us nothing more than that inflation has been rampant and property values on the rise. In fact, higher mortgage payments that new homeowners pay as compared to earlier purchasers forewarns us against any cavalier assumption that later purchasers are able to bear heavier taxes."

• What about the owner of property that has decreased in value since 1975? Proposition 13 would allow an assessment reduction only if there is a downward trend in the consumer price index.

The open issues

Thus far, Bird and her colleagues have dealt with Proposition 13 only in terms of broad concepts. In the years to come, the Supreme Court will have to deal with a plethora of specific cases involving individuals and organizations who feel they have been damaged unfairly by the initiative and its implementation. The court left a variety of issues open for later decision. Richardson wrote: "We caution that, save only as to the specific constitutional issues resolved, our summary description and interpretation of the article and of the implementing legislation and regulations, do not preclude subsequent challenges to the specific meaning or validity of those enactments." Among the questions left for future cases:

How does the 1975 rollback provision apply to involuntary changes in ownership, such as by death or divorce, and to new construction? Does Proposition 13 impair various contractual obligations incurred by local government? What about the retirement of redevelopment bonds sold by 121 cities and three counties and which now might be in danger of default?

As the years progress, however, the major issue facing the court will be how to cope with the inevitable disparities the 1975 rollback provision will create. If the Proposition 13 system remains in operation for a few decades and there is continued inflation in the cost of housing, the difference in taxation among those with identical properties could be several hundred percent.

The 6-1 decision by the high court on the equal-protection issue probably makes it more likely than ever that there will be another major tax-reform proposal placed into law within the next few years. There will be continued pressure, for example, for the proposal sponsored this year by Assembly Speaker Leo T. McCarthy to abolish the property tax on owner-occupied homes.

There is also the possibility, remote as it may seem at present, that once the Supreme Court starts handling the specific rather than general issue in Proposition 13 that some justices might come around to the Bird point of view. At the very least, the political atmosphere should be markedly different at that time.

Debunking the Brown Myth

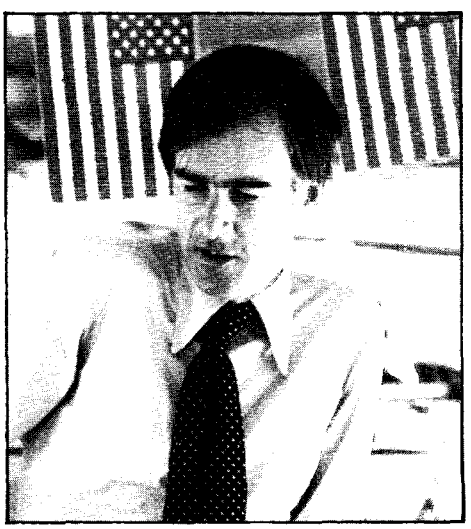
By MARTIN SALDITCH

Among the political myths attributed to Jerry Brown, even by such usually careful publications as the *California Journal*, is that he "bested Jimmy Carter in five out of five presidential primaries" in 1976.

That is an inaccurate oversimplification which makes Brown appear much more of a "political wizard" than the record indicates. First of all, there were six primaries in which Brown campaigned against Carter. For some reason, pundits forget Oregon, where Senator Frank Church won with 34 percent of the vote; followed by Carter, 27 percent; and Brown, 25 percent by write-in.

There were only three primaries in which the names of both Brown and Carter were printed on the ballot — Maryland, California and Nevada. Brown won all three, but the latter two were on or near his "home turf" and not seriously contested by Carter.

As to the other two primaries (New Jersey and Rhode Island) in which Brown was involved, the California governor campaigned for *uncommitted* slates against Carter. The uncommitted slates led Carter delegates in both states, but that doesn't mean they necessarily preferred Brown as an alternative. In fact, Brown was quoted by the *Los Angeles Times* (June 3rd, 1976) as conceding that the uncommitted slate in New Jersey was overwhelmingly for Hubert Humphrey, and that he was backing it merely as a stop-Carter move. Rhode Island, by the way, was no great victory even for the uncommitted forces there. They won nine delegates; Carter, seven; and Church, six.



So the only head-to-head presidential primary race which Brown won against Carter on "neutral ground" was in Maryland, 49 percent for Brown to 37 percent for Carter.

In summary, Brown gets credit for three primary victories over Carter, partial credit for two uncommitted slate victories, and one defeat. That's a far cry from this "five out of five" myth.

Martin Salditch is the Washington correspondent for the Riverside Press-Enterprise.

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Has Dellums lost his spell over the Eastbay electorate?

By JOYCE MCNAIR

Just two years ago, the Eastbay political coalition led by Congressman Ron Dellums was considered a model for a new, successful Democratic "machine." Throughout the early '70s, the candidates and issues supported by Dellums and his allies did consistently well at the polls. But after the June primary this year, the *Berkeley Barb*, a counterculture weekly, carried this headline: "Dellums' Machine Grinds to a Halt."

What happened? The answer lies partly in the early media attention Dellums attracted. Northern Alameda County, particularly Berkeley, has provided some unusual political opportunities for Black office-seekers. After his dramatic victory over pro-Vietnam War Congressman Jeffrey Cohelan in the 1970 Democratic primary, Dellums was quickly identified as a young, articulate, Black newcomer. Elected largely by Berkeley students and Blacks, he emerged as a national spokesman against the war and for progressive social causes. As a result, any election victory since then for a Dellums-supported candidate has been attributed by the media to his personal popularity, and the "machine" image has grown.

But if Dellums got the credit for early victories, he also stood to lose credit through defeats. And there have been some key losses recently:

- Three Berkeley City Council candidates endorsed by Dellums were defeated last year.
- Two local ballot measures in Berkeley — one on rent control and another on tenant-landlord relations — were rejected in the same election, despite their support by Dellums and the council slate he endorsed.
- In this June's Democratic primary in the 13th Assembly District, the Dellums-backed candidate, Black attorney Beth Meador, came in a poor third. The winner — another Black attorney, Elihu Harris — barely defeated white teacher Don Perata, in a district which has had Black representation for 30 years.

Exceptions or a trend?

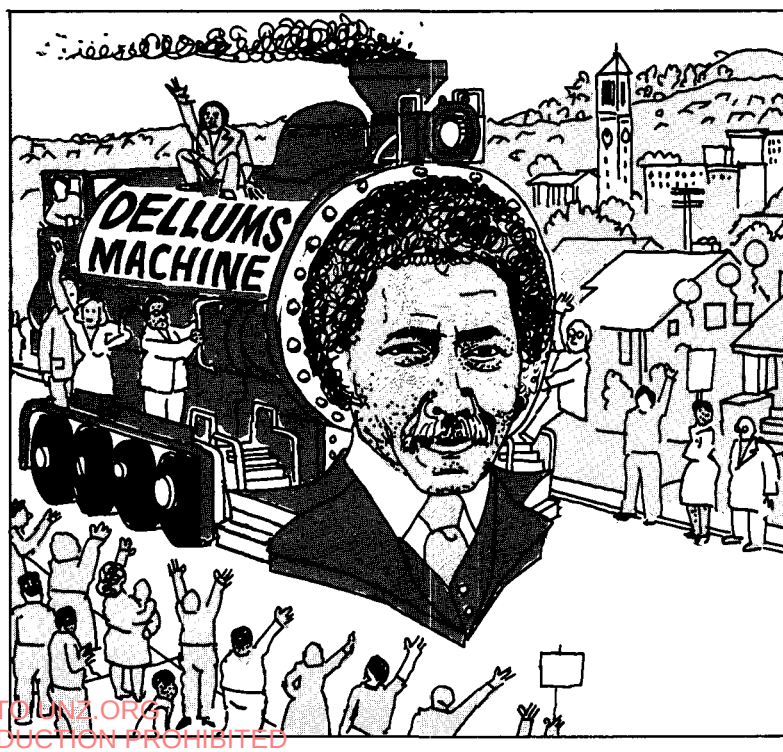
Are such defeats only temporary exceptions to the pattern of Dellums' success? Or has his political clout been seriously damaged? Although he is popular in Black areas, the heart of Dellums' political strength has always been the white precincts around the University of California's Berkeley campus. This is the home base of Berkeley Citizens Action (BCA), the liberal, grassroots political organization that helped Dellums — then a Berkeley city councilman — win his race for Congress in 1970.

The other branch of the Dellums organization is the Executive Committee, 30 political activists and representatives of community organizations throughout the Eastbay area. The committee keeps Dellums informed on local issues and recommends endorsements of candidates or issues to him. Elected officials most closely aligned with him are Assemblyman Tom Bates, Alameda County Supervisor John George and Berkeley City Council members John Denton and Loni Hancock.

Working with then-Assemblyman Ken Meade, Dellums and his organization began in 1971 to endorse slates of candidates for Berkeley city elections. This continued the progressive-versus-moderate struggle for control of the council which had begun with Dellums' own election to the council in 1967. Although never able to elect more than three of their own to the council, Dellums' supporters met with more success in passing ballot initiatives, particularly in general-election years when voter turnout is heaviest. Some of the more controversial ones, however — such as the 1972 rent control charter amendment — were overturned by later court decisions.

Then in 1976 John George, an Oakland attorney and member of the Dellums Executive Committee, was elected as the first Black Alameda County supervisor. George's victory gave the organization an opportunity to expand its influence at the county level.

Joining with Dellums and the BCA to back George were most elements of the Eastbay Democratic establishment: elected officials, party activists, labor, Black ministerial



Joyce McNair is a free-lance writer living in Berkeley.

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groups, Democratic clubs and the county Democratic central committee. George labeled himself the "official Democratic candidate" in the non-partisan race, although his two primary opponents — Berkeley council members William B. Rumford and Vice-Mayor Sue Hone — were also Democrats. After defeating them, George picked two veteran Dellums aides to handle his runoff election, and he won that one by a margin of nearly two-to-one.

The Dellums organization netted mixed results from the 1977 city elections in Oakland and Berkeley. Most attention focused on Oakland which was about to elect its first Black mayor. Local Democratic elected officials, Democratic clubs, professional groups, Black ministers, and white liberals joined Cesar Chavez, Tom Hayden, Senator Alan Cranston, Governor Jerry Brown and Lieutenant Governor Mervyn Dymally in an unprecedented display of support for Lionel Wilson, on leave from the Superior Court bench. During one two-month period before the primary, there were 25 Wilson fund-raisers, sponsored by a variety of interest groups as well as traditional Democratic organizations.

One of Dellums' top aides, Sandre Swanson, was Wilson's campaign manager, but other elected officials' campaign organizations — notably Assemblyman Bill Lockyer's — were equally visible in the Wilson ranks. The combined efforts of all these groups and individuals produced Wilson's victory, and no single individual or organization could take credit for it. Not only was Wilson swept into office but so were all other city council and school board candidates running as an unofficial Democratic slate.

Defeat in Berkeley

Meanwhile, in neighboring Berkeley, the three city council candidates endorsed by Dellums and company — including incumbent Ying Lee Kelley — were going down to defeat. One factor in the loss was a serious split within the ranks of BCA. The majority within the organization refused to endorse Communist Party member Mark Allen for the fourth city council slot, backing only three candidates and presumably allowing their followers to vote for Allen if they wished. The result of that compromise was the election of a member of the rival, moderate Berkeley Democratic Club slate (BDC).

Perhaps even more crucial was the decision by BCA and its council slate to support the two controversial ballot measures. The proposals would have rolled back rents to June 1976 levels, established a rent-control board paid for by landlord-registration fees, and applied the program to virtually every rental space in the city, including rooms in private homes. As much as $100,000 poured in from real estate and landlord interests throughout the state to help defeat the measures.

Under-financed and on the defensive, the BCA was never able to present a persuasive rebuttal to opponents of the measures or to mount a successful drive to elect its own slate. Members of the opposing BDC slate benefited from the anti-rent control backlash and from veiled charges that the BCA was infiltrated by the Communist Party, even without Mark Allen on the BCA slate.

When results were tallied on election night, the three BCA candidates had lost, the landlord-tenant and rent control measures were soundly defeated and the BCA was in shambles, with only two of its members left on the council. Dellums and his organization had suffered a major setback, but because Lionel Wilson and his slate were swept into office, the attention of observers outside of the Bay Area focused on Oakland.

The primary split

But another election did not escape public attention: this year's June primary race for the 13th Assembly District seat, being vacated by Appellate Court-bound Assemblyman John J. Miller. The urban district — consisting of south and west Berkeley, part of Oakland, and the cities of Alameda and Emeryville — is so heavily Democratic that the primary victor is a shoo-in for the November general election. Three candidates emerged: Elihu Harris and Beth Meador, both young Black attorneys, and Don Perata, a young white teacher. All three had been active in Eastbay Democratic politics. Harris and Perata were former Miller aides. Meador was a Dellums Executive Committee member.

The major question was whether the district, with a majority white population, would continue its 30-year Black representation. (W. Byron Rumford represented the district for 18 years, succeeded by Miller in 1966). Many observers feared that a split in the Black vote would hand the election to Perata, and considerable pressure was applied to Meador to withdraw from the race. She was perceived as the weaker of the two Black candidates, but she chose to remain a contender, with Dellums' approval.

Lining up behind Harris were Miller, Assembly Speaker Leo McCarthy, Dymally, Assemblymen Bill Lockyer and Floyd Mori, Oakland's Mayor Lionel Wilson and Councilman Carter Gilmore, all of Emeryville's city council and school board members, Black ministerial groups, the International Longshoremen's and Warehousemen's Union (ILWU), the United Auto Workers (UAW) and seven of the nine Berkeley city council members, led by Mayor Warren Widener.

Candidate Meador had Dellums, George, Bates, Oakland council members Mary Moore and John Sutter, Oakland school board members Peggy Stinnett and Russell Bruno, the BCA and Tom Hayden.

The Democratic clubs in the area split almost evenly in their endorsements of Harris and Meador. Except for the unanimous endorsements of city council and school board members in his hometown of Alameda, Perata had no other major endorsements.

The amounts and sources of campaign money became a major topic during the campaign. Final primary financial statements show the Harris campaign spending $130,000, a record for a Northern California Assembly race. Perata's major income came from two $15,000 personal loans. Meador raised only $6,000 by April but near the end of the campaign she got a $25,000 loan from Tom Hayden's

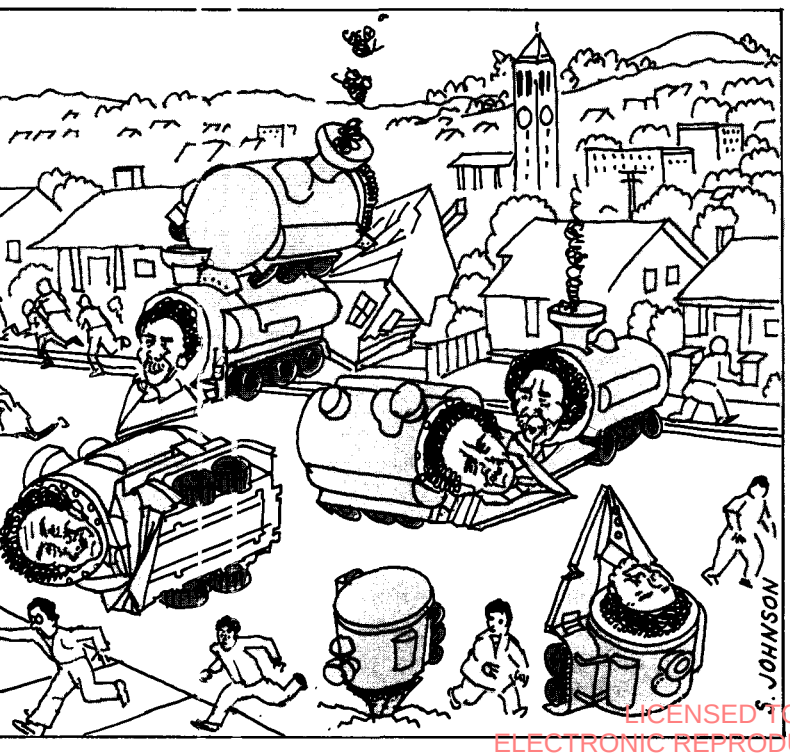

ILLUSTRATION BY STEVE JOHNSON

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Gift book ideas from the

California Journal Press

In the next 50-odd days, you'll be trying to figure out the right gift for each person on your Christmas list.
Here are some suggestions from the
California Journal Press:

A great gift that entertains as it informs: **The Cartoon History of California Politics,** by Ed Salzman and Ann Leigh Brown, a 156-page book containing more than 100 drawings illustrating California's fascinating political history. Price: $5.25, including tax.

The essential reference volume on California government and politics: **California Journal Almanac of State Government and Politics, 1977-1978 edition.** Price: $4.19, including tax.

The Whole Brown Catalog: **Jerry Brown: High Priest and Low Politician,** by Ed Salzman, with cartoons and photos. Price: $3.13, including tax.

An indictment of the industry that helped Brown hide the 1974 gubernatorial campaign: **Phantom Politics: Campaigning in California,** by Mary Ellen Leary, a 191-page paperback book describing media coverage of California politics. Price: $6.31, including tax.

A thoughtful analysis of contemporary problems in the press: **Reporting: An Inside View,** by Lou Cannon, a 320-page book by the *Journal's* long-time Washington columnist. Hardback, $10.55; softbound, $5.25, including tax.

The book that tells all about California sex laws without the slightest hint of titillation: **Sex Code of California,** prepared by Planned Parenthood Affiliates of California. Price: $5.25, including tax.

A reference book on the various elements of state government: **A Guide to California Government,** published by the League of Women Voters of California. $3.50, including tax.

Use the handy card in this magazine to place orders. Or just write out your own with payment (Visa and Master Charge numbers accepted) to **California Journal Press,** 1617 10th St., Sacramento 95814.

Campaign for Economic Democracy, arranged by Dellums.

Perata, as expected, concentrated his efforts on wooing white voters within the district with a targeted potholder mailer to selected areas and two districtwide mailings — always including pictures of one or both of his Black opponents. The Harris campaign focused on increasing his base of support in the Black precincts of Berkeley, Oakland and Emeryville. He launched a highly visible billboard and yard-sign campaign, followed by five districtwide mailings, most targeted to specific areas.

Harris won with a slim 571-vote margin over Perata; Meador trailed. Her poor showing may have resulted partly from a decision by her strategists to use the entire $25,000 loan from Hayden's organization for a television blitz featuring Dellums the last two weeks before the primary. Her ads were seen primarily by non-residents of the district in the greater San Francisco Bay area. There were no districtwide mailings by the campaign and the precinct work was spotty at best.

A faltering future

What does the future hold for Dellums and his faltering organization? Past elections indicate that the Dellums "machine" functioned best in the city of Berkeley. (George has the entire city of Berkeley within his supervisorial district boundaries and Bates has most of the campus precincts in his Assembly district.) But the most recent Berkeley election shows the organization in serious trouble there.

Although there have been rumors of outside interests willing to spend as much as $250,000 to challenge Dellums, no strong candidate has emerged and his own personal popularity remains high within his district. However, his political future is tied somewhat to the political fortunes of his close associates — Bates, George and the BCA.

Bates has indicated he would like to move up politically from his Assembly seat as early as 1980 and George is also up for re-election in 1980. The BCA is attempting to regroup from its defeats by sponsoring a rent-reduction initiative to require landlords to pass on Proposition 13 tax savings to renters. Student disinterest in politics and evidence of a more conservative political trend dims the organization's chances to increase or even maintain its representation on the city council.

The future of the Dellums organization within the greater Eastbay Democratic establishment is even less clear. The victories of Mayor Wilson and others in Oakland's city elections were possible only because all factions within the Democratic party came together for the first time in a united campaign effort. If the bitter 13th Assembly race divides the city's Democrats, and if these divisions are allowed to harden as they have in Berkeley, Democrats may never gain numerical control of the city council. (They now hold four of the nine council seats.)

Oakland politics appear to be at the point that Berkeley's were ten years ago. Then Democrats had the majority of population but faced a Republican-dominated city council. Today, with an 80 percent Democratic registration in Berkeley, the moderate-liberal majority on the city council still must depend on the remaining Republican voters in their frequent conflicts with the more progressive wing of their own party.

Already several candidates are positioning themselves to run for the Oakland council, and nervous party activists are looking to their elected officials for guidance in forming a slate. One political observer stated the predicament simply: "We worked too hard in 1977 to see all of our efforts go down the drain next year. What Dellums and his people forgot is that we were all components of the 'machine.' Only by working together as a team were we able to make political progress."

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It's easy to get hooked on the government game — so Sacramento provides a happy home, both for legislative has-beens and ambitious newcomers.

THE UNIQUE 'Junkie Politics' OF THE STATE'S CAPITAL CITY

ILLUSTRATION BY SUSAN DOUGLAS

By MANUEL VALENCIA

Sacramento is a quiet, dignified, old lady of a city — a river town of families whose roots can be traced to the gold rush, and of squat government buildings whose bland design can be traced to bureaucrats.

This city of 270,000 ranked second last year in a survey on quality-of-life among major metropolitan areas in the nation. It's a peaceful and stable city, certainly no match for San Francisco's glittering night life or the exciting beat of sprawling Los Angeles.

Sacramento is, above all, a company town. The business is politics and government, and therein lies the city's unique quality: Sacramento is a city of political junkies.

Where does the addict get his daily fix? In the heart of downtown Sacramento, between the K Street Mall and P Street. There work 120 legislators and their staffs, 600 lobbyists and their staffs, most of 34,664 state workers, and a Capitol press corps of some 90 reporters, whose only beat is politics and government.

When the Legislature is in session, Sacramento is abuzz with demonstrations, rallies, press conferences, floor sessions, committee hearings and bare-knuckle politicking. If that isn't enough, there is the evening activity of political cocktail parties and receptions to raise funds for office-seekers, to pay off campaign debts of losing candidates or to drum up support on the latest issue — be it to save the whale or to save Health and Welfare Director Mario Obledo from a barrage of criticism.

A colony of ex-legislators

"For the size of this community, the political action is overwhelming here," says Ray Gonzales, the former Kern County assemblyman and now a member of the state Public Employee Relations Board. "I could have gone back to Bakersfield, but that would have been like going back to the bush league and starting all over again."

Gonzales, who was defeated after a single two-year term in the Assembly, represents a colony of ex-legislators living in Sacramento. They choose to remain here, most working as lobbyists, in order to be near the political heartbeat of the state.

The list is long. It includes former Assembly Speaker Bob Moretti, who is in the import-export business; Pauline Davis, the ex-assemblywoman from Shasta who owns a gift shop in Old Sacramento; and Bob Monagan, also a former Assembly speaker, who is president of the California Manufacturers Association. One-time legislators now in the lobbying business include David Negri, Kent Stacey and Craig Biddle. Lame-duck Assemblyman Mike Cullen of Long Beach — whose 12-year political career ended in June when he was defeated by a Long Beach harbor commissioner — says he too plans to remain in Sacramento, possibly as a lobbyist.

Cullen's defeat may have stemmed from his preference for Sacramento over Long Beach. His opponent campaigned in part on the fact that Cullen and his family owned a house and lived in Sacramento, instead of commuting to the Capitol from Southern California, as many legislators do.

"We have a nice home here," Cullen says, explaining his decision to stay in Sacramento. "We have lots of friends here, and over 12 years we have spent most of our time here because this is where our operations took place."

Gonzales, who was defeated in 1974, offers a blunter explanation for staying: "My political career was cut short and maybe I need a greater (political) fix than most other guys."

The appeal of Sacramento has definitely not impressed the California Supreme Court, which adamantly refuses to leave sophisticated, cosmopolitan San Francisco for "River City." The court held its first session back in 1855 in the B. F. Hastings Building, located at the edge of the Sacramento River in Old Sacramento. It dispensed justice for 13 years there, in chambers above a telegraph office. But floods in the winter and oppressive valley heat in the summer caused the justices to move to San Francisco, where the court has been sitting ever since. Pleas from Sacramento officials to return have been futile, even though dams and air-conditioning have taken care of the earlier problems. Senate President pro Tempore James Mills even has introduced legislation that would have required the Supreme Court to move its headquarters to the capital, arguing that for the sake of efficiency and tradition, the court should be located where other state offices are located. But the bill died. The Supreme Court has chambers in the state Library and Courts Building across from the Capitol, which the justices use once a year.

A local turn-around

But for political addicts like Gonzales, Monagan and Cullen, Sacramento has the best action in the state. Even at the local level, Sacramento has a restless, politically involved population. The City Council is dominated by moderate-to-liberal Democrats, in a city where Republicans are outnumbered by nearly two to one. Up until 1971, however, Demo-

Manuel Valencia is a Capitol reporter for the Sacramento Bee.

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crats' numbers mattered little in local politics. A small group of conservative business leaders controlled the nine-member council, and they consistently won election under the city's at-large representation system.

That changed with the 1971 elections, after voters approved a new district system of representation. The district plan was urged by an unlikely coalition: the Chamber of Commerce, which wanted more city annexations, and a new generation of political activists, who wanted a voice in local government. At that point a different breed of political office-holder began to emerge — generally young, liberal and Democratic and with few ties to the business community. This new breed then began appointing persons with similar qualities and philosophies to city boards and commissions.

Mayor Phillip Isenberg is a product of the district system. Ten years ago, Isenberg — a liberal lawyer who learned politics from San Francisco's Congressmen Phillip and John Burton and from Assemblyman Willie Brown — never would have stood a chance at winning election to the city council. But as a former lieutenant to Assemblyman Brown and as a consultant to Brown's old Ways and Means Committee, Isenberg represents a trend toward what has been called Sacramento's "sandbox politics." Such politics attract individuals who work for the state by day as consultants, agency lawyers, administrative aides. By night they immerse themselves in local politics.

In the past seven years, they have either been elected or appointed to public jobs, or they have worked backstage on campaigns for individuals or causes that have had deep and lasting impact on Sacramento affairs.

The *Sacramento Bee* reported in a recent article that the city — "the most government town of any in the state — is being run by government people, perhaps even out of proportion to their total number in the population."

The main event

A graduate student at Sacramento State University, Evelyn Mitchell, studied the trend and wrote about it this way:

"What power and affluence had accomplished for the downtown establishment, the new groups were able to accomplish with another resource — their time. For most of them, politics was not a sideline, but the main event in their lives — they played at it just as some enthusiasts play bridge — for their entertainment as well as their serious business."

Their ranks include Tom Hoeber, former assistant chief administrative officer for the Assembly Rules Committee and publisher of the *California Journal*, now a member of the City Council; Lawrence Augusta, an attorney for the state Board of Equalization, and Fred Silva, a consultant to the Senate Local Government Committee, both members of the powerful City Planning Commission; and David Doerr, chief consultant for the Assembly Revenue and Taxation Committee, a member of the suburban San Juan School District Board of Education. The list goes on and on.

Mayor Isenberg disputes the "sandbox politics" label, although he does acknowledge the political talent that has come from the Capitol. "I don't cotton to that description," he says. "It's an elitist notion that the only reality is the Legislature. What state government has done is brought Sacramento a talented collection of people. They stay here, they work here, give volunteer time to Sacramento out of proportion to their number — and that is not sandbox politics. That is because the state Capitol provides an awfully important element to the community."

Political juices

The political juices of Sacramento flowed as never before earlier this year. The reason: the costliest, most exciting race ever held for the Democratic nomination for the Third District's congressional seat, being vacated by retiring Democrat John Moss. Opponents in the three-way contest were Mayor Isenberg, Assemblyman Eugene Gualco and Councilman Robert Matsui. Sandbox politicians all over town immediately jumped in to support one of the three candidates, or to organize their own campaigns to fill the candidates' empty seats on the city council and in the Assembly.

Matsui, a 38-year old moderate, who was considered a dark horse in the race, beat front-runner Gualco by waging a $225,000 campaign that heavily employed television ads. Isenberg ran a not-too-distant third. The next seat Gualco and Isenberg may be looking at is that of State Senator Albert Rodda, a Democrat who probably will retire when his term expires in two years.

For all the political intrigue that swirls in Sacramento, however, the action is generally confined to several blocks in the downtown area, where the Capitol and department buildings are located. "The political biorhythm of this city ebbs and flows with the Legislature," observes Eric Brazil, bureau chief for the Gannett Newspapers. "You can see it by just looking at the wire machines of AP," he says, pointing to the office of the Associated Press across the hall from his. "But there's also a feeling of sophisticated insularity — that the world is bound by P Street and the Mall."

And so it is — at least for the political junkie who would never exchange Sacramento's squat government buildings for San Francisco's skyline.

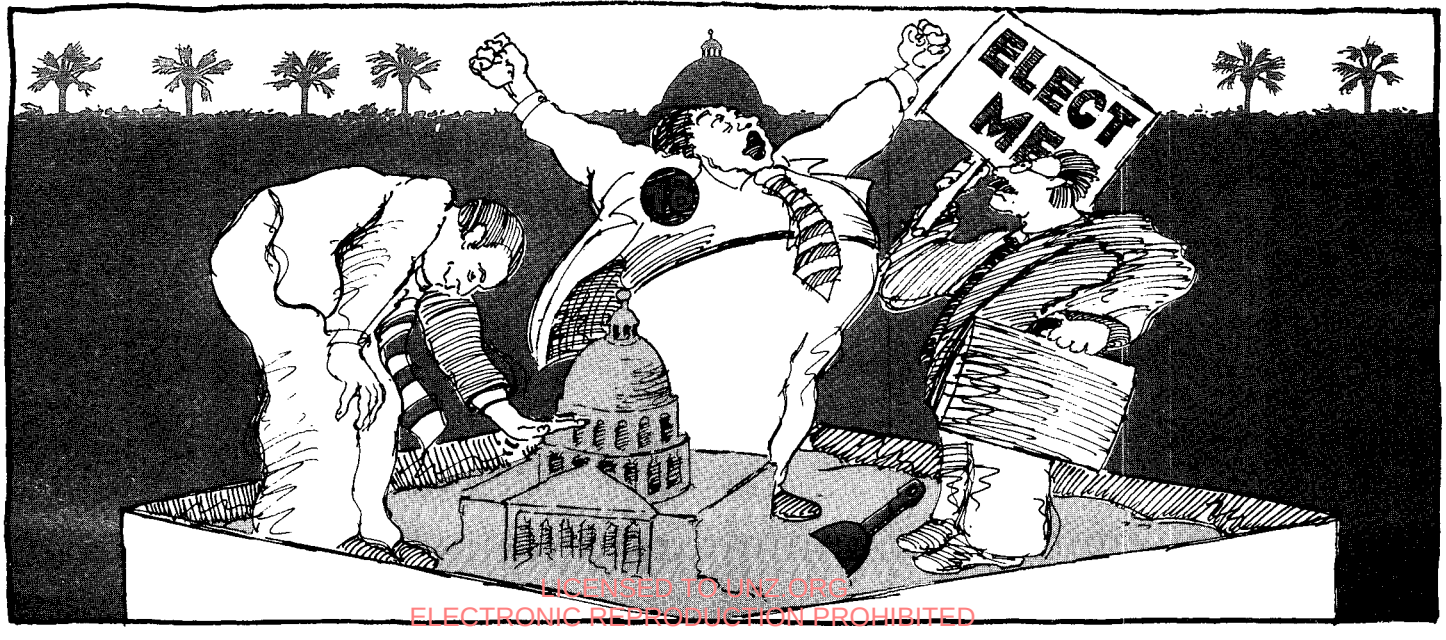

ILLUSTRATION BY SUSAN DOUGLAS

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The California employees who've never seen the state

By RICHARD RODDA

As you enter Suite 765, Time & Life Building, you are likely to be startled by the huge California Bear flag on the wall of the reception area. Try Suite 520 in the 42-story 675 Third Avenue skyscraper, and a large replica of the great seal of California will greet your eyes.

What this means is that California has two tax-auditing offices in the Big Apple, with nearly 100 full-time civil service employees. Their job is to see that IBM, General Electric, ITT, RCA, Xerox, Union Carbide and other corporate giants pay the full amount of their tax liability to California.

The irony of this is that most of the employees have never been to California, much less to Sacramento, where the Legislature appropriates the funds for their salaries. "A paycheck's a paycheck — California's is as good as any," says a native New Yorker who has no intention of being transferred to California should such a move be offered.

The Franchise Tax Board, which administers the bank and corporation taxes, is located in the Time & Life Building, just across the street from Radio City Music Hall in Rockefeller Center. Forty-five employees are on the staff. The State Board of Equalization has 51 employees at the Third Avenue location, a block east of Grand Central Terminal. The board collects the sales and use taxes. Both agencies have 38 employees each in Chicago and the Board of Equalization has five employees in a recently opened office in Houston.

The payoff of access

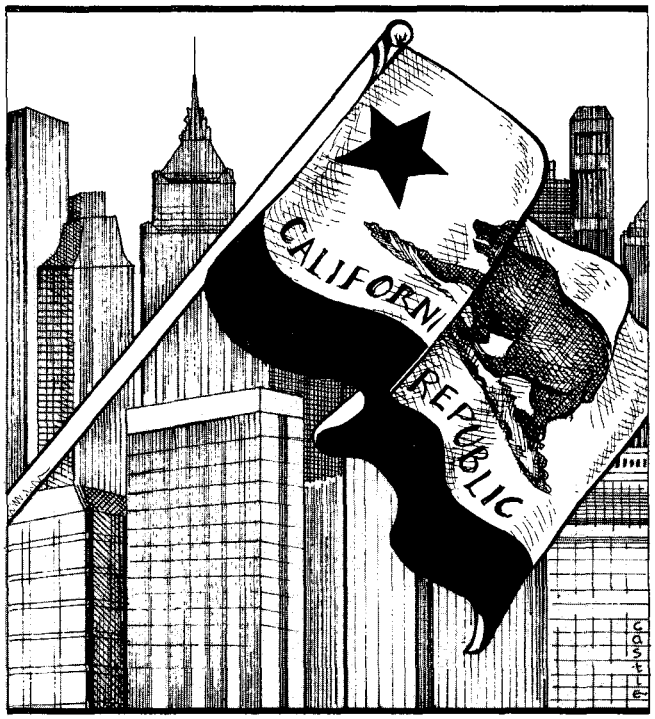
One might ask why the state cannot do just as well by auditing the returns as they are filed in Sacramento. California officials claim direct access to the records in corporate headquarters and face-to-face encounter with company tax experts pay off.

The Franchise Tax Board says that the out-of-state operation in 1976-77 brought the state $44 million in additional revenue. The cost of operating the offices was $4.9 million. The Board of Equalization, with a larger staff, collects less money because of the nature of the taxes involved. Its total will reach about $14 million this year.

At the suggestion of the late Dixwell Pierce, secretary of SBE, a one-man bureau in New York was authorized by the Legislature in 1947. In 1953 FTB set up its office.

"When our operation began, the reception was extremely cool," says Martin Huff, executive officer of FTB. "Over the years, the state's policy of firm but fair auditing and the professional caliber of the career civil service employees have resulted in increased respect and a lessening of resentment."

Richard Rodda is the retired political editor of the McClatchy Newspapers.



The eastern offices audit the "Fortune 500" and other large corporations which do business in California, as well as firms in transportation, finance and retail trade. The New York auditors are on the road about 25 percent of the time, covering firms headquartered in other cities along the East Coast and westward to Pittsburgh.

Frank Goodman, area administrator for the Board of Equalization, is a native New Yorker who lives in the north Bronx and commutes to work by subway. "I love New York, with its museums, the theater and symphonies, the art galleries and restaurants, and I doubt I would ever move west," Goodman says.

Others on his staff, almost without exception, have roots in Brooklyn, Queens, the Bronx or Manhattan. They are loyal to the Yankees, the Mets, the Knicks (basketball), Rangers and Islanders (ice hockey) and the Jets and Giants (football).

Goodman has worked for the state since 1955. He took the job as temporary work while he looked for something else. But he soon liked what he was doing and made a career of it.

Eastern recruiting

The experience of William Brophy, area administrator for SBE, is similar. He is a native of Brooklyn with 19 years of service to California. "It broke my heart when the Dodgers moved to Los Angeles," he comments, "I hung on as a fan for

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a long time, but now it's pure hate. I never forgave (Walter) O'Malley for that one."

Because Californians invariably refuse transfers to the East, the state does all its recruiting in New York, advertising for help in the *New York Times*. Civil service auditors begin at $16,200 and move to $19,500 with yearly increases. Then they are eligible for promotion to a higher grade after passing another civil service examination. This gives them a chance to make $23,600 after four years.

Even though this pay is about 5 percent more than that of comparable civil servants in California, there is a heavy turnover on the staffs. A few weeks ago FTB lost an auditor to a corporation which offered him $24,000.

The New Yorkers were not very happy about Proposition 13 and the resulting wage freeze imposed by Governor Jerry Brown. They contend that, in the first place, the 5 percent differential does not cover the higher living costs in New York.

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The tax-included prices are $3.71 for the **Annual** and $5.25 for **California Public Administration.** Although these books are designed primarily for student use, they can be useful tools for anyone seeking to understand how state government works.

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In the history of the two offices the acceptance of a transfer and a promotion either from New York to California or vice versa has been rare. Walter S. King, 52, was born in New York. He was educated at UCLA and took his first state job in Los Angeles in 1947. It was not hard for him to accept a transfer to his native state, where he now serves as field audit supervisor for SBE.

Samuel Stein, 63, began with SBE in New York in 1947. He is now district administrator of out-of-state operations, with offices in Sacramento. "Mine was first a part-time job in a cubbyhole in a warehouse on 18th Street," he recalls. "You could see the rats floating around, but we had free rent from the state of New York. Today our auditors average $265 an hour in revenue. This is a good deal for California, since it costs $25 an hour in salary, pension, fringe benefits and rent to support each auditor in New York."

Key employees in all of the out-of-state offices are not totally unfamiliar with what goes on in Sacramento. They are summoned to the capital for periodic conferences, seminars and training sessions. A number of the employees in the Chicago offices are ex-Californians and the new Houston office is staffed by Californians, 100 percent.

Chicago auditors, covering the midwestern states, audit such companies as Cadillac, International Harvester, TWA, United Air Lines, Ford, the Sunday School Board, Baptist Convention and the Methodist Publishing House.

Interpretation, not fraud

State officials say fraud is seldom discovered in the audits. Most of the disputes involve interpretation of the law, and there have been some major ones. Three individual settlements were made last year involving taxes of $1.7 million, $563,580 and $339,000 in favor of Board of Equalization assessments. One state claim of $3.3 million is on its way through the courts. Sometimes the money goes the other way. Refunds of $25,000, $38,000, $40,000 and $77,000 were made to out-of-state companies in recent months.

Several other states have set up offices in New York, but California is the pioneer. There has been agitation in the New York Legislature to set up taxing offices in California, but so far little headway has been made. Stein believes California has not reached the point of diminishing returns; that many more auditors could be employed and would more than justify their salaries and expenses.

John F. Due, a professor of economics at the University of Illinois, recently made a study of out-of-state auditing, and California came out as "the one exception" to an otherwise inadequate performance of the states.

"In general," he concluded, "the states are losing very significant sums of revenue annually in excess of the cost of additional audit personnel. The average state needs at least to double its audit staff, and a number of states need to increase the force several fold."

While New York and California are more than 3,000 miles apart, a common bond has developed between the employees living in both states. One New York staff member suffered kidney failure and is undergoing expensive dialysis treatment. He had exhausted all sick leave, insurance and other benefits the State of California legally can pay. So employees of the 19 district FTB offices in California and the office in New York have raised hundreds of dollars to continue the treatments.

Incidentally, some of the New Yorkers are frustrated by the confusion on the part of the public. "I go into an office, identify myself, and the first thing that I'm asked is 'When did you fly in and how's the weather in California?' " laments one auditor.

Another says he cannot get it through to his family and friends what his job is all about.

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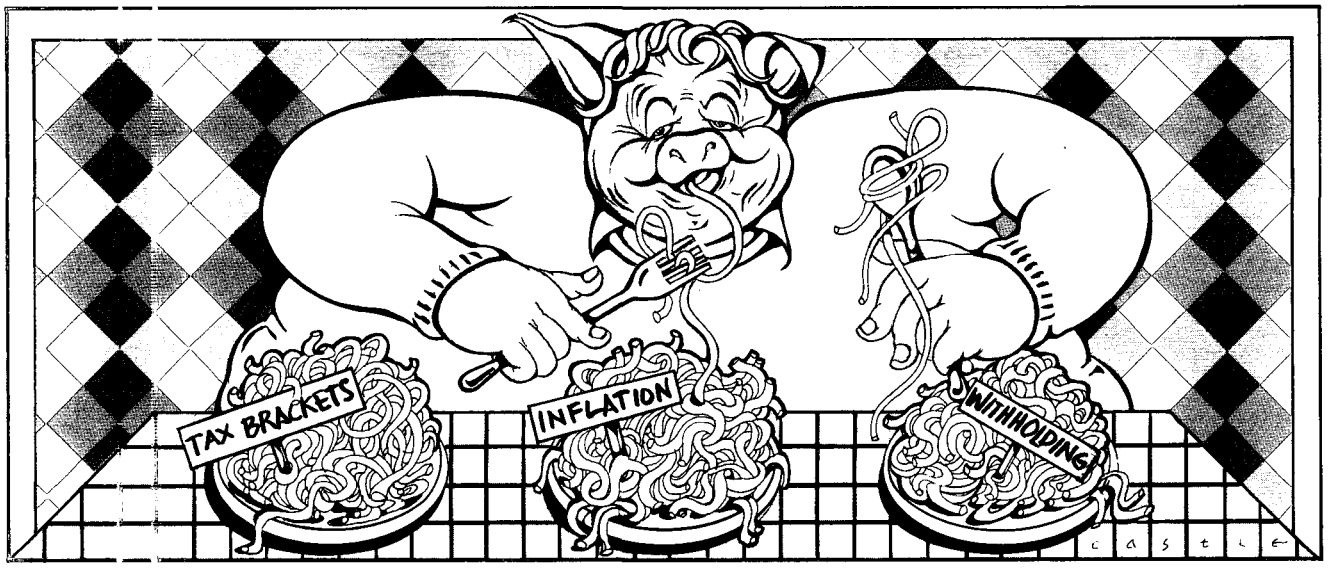
Wounding the culprit that created the 'obscene' surplus



By DAN PURNELL

"Disgusting" . . . "Immoral" . . . "Obscene" . . . "Shameful." No, this isn't a review for an X-rated movie, but descriptions by legislators of the state's mammoth surplus and the golden-egg-laying goose that has created much of that surplus: the state's personal income-tax system. Once perceived as a badge of prudent budgetary management, the state surplus now has grown into an acute embarrassment for lawmakers in Sacramento.

No one can quite agree on how big the surplus actually is — estimates range from $2.7 to $6.6 billion — but there is no disagreement on one point: The main cause of the excess billions is California's personal income tax, which has generated more and more revenue in the last decade. This year, for the first time, it will outstrip the sales tax as the state's biggest money-maker.

Now — after years of rejection — a Cinderella-like reform called indexing has been embraced by Democratic lawmakers. To the Republican minority's screams of piracy, Governor Brown and his party's legislative leaders lined up this summer to support a billion-dollar, pre-election tax package that will make a major change in the state income-tax picture.

Indexing — a favorite proposal of Republicans for a long time — acknowledges the realities of runaway inflation. Only ten years ago, total state tax collection was about $5.17 billion. Personal income tax collection was $952 million, or about 18½ percent of that total. This year, according to Department of Finance estimates, the state will collect nearly $16.5 billion in taxes. But the personal income tax take will soar to about $5.6 billion — an increase of 484 percent, constituting about 33.9 percent of the total.

How did such a gluttonous levy develop? There are three major causes:

- ***The rise in personal wealth.*** California has consistently bettered the national average for real economic growth. Other levies, such as bank and corporation taxes, have also risen dramatically during this time, reflecting the overall strength of the California economy.
- ***Inflation.*** In the early '60s, inflation was holding at a tolerable 3 to 4 percent annual rate; in the '70s, it has soared to an alarming 7 to 10 percent. Like a drug that distorts the perceptions of the addict, inflation distorts the fair functioning and original intent of the tax system. Obviously inflation raises the price of goods and services and causes the dollar's purchasing power to decline. But inflation creates an additional burden in relation to income taxes. Salaries are often raised to keep up with inflation and maintain purchasing power. But the California income tax does not detect changes in purchasing power — only changes in the dollar amount of income. So as inflation pushes salaries higher, the state claims a greater percentage of income than before. In this circumstance, a taxpayer can actually be poorer as the result of a pay raise.

Inflation also makes fixed-amount credits worth less — and since these credits constitute a greater proportion of tax savings for low-income persons, inflation hits the poor harder than the rich.

Dan Purnell wrote "Cal-Tax: big-biz" in last month's Journal.

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TAX FACTS: A PRIMER

Here's how the California income tax has worked in the past — and how it will be changed by the new indexing law:

• The income tax is "progressive," meaning simply that rich people pay at a higher rate than poor people. In 1975, for example, those Californians reporting incomes of $50,000 and over represented only 2.1 percent of all personal tax returns — but they paid 26.5 percent of the tax. By contrast, 54.1 percent of the taxpayers that year had incomes of $15,000 or less, and paid only 14.9 percent of the total tax.

• The income tax is imposed on "net taxable income," defined as gross income minus deductions. It is applied on a graduated scale at rates ranging from 1 to 11 percent. A married couple filing a joint return enters a higher tax bracket for every $3,000 increase in personal income. The brackets continue to rise until personal income reaches $31,000. There the "progressive" nature ends — the tax would be a flat $1,660 plus 11 percent on any amount over $31,000.

• Tax credits — similar to exemptions in federal tax law — are fixed amounts that may be subtracted from the actual amount of tax owed. Because these credits are fixed amounts — like the $25 credit for a single person or $8 for each dependent — they represent a greater tax savings to low-income than to high-income taxpayers.

Under the tax-cut bill passed this year, these changes in the income-tax picture will occur:

• For one year only, the standard income-tax credits will be raised — from $25 per person to $100 per person, and for couples filing joint returns, from $50 to $200.

• Indexing of future income taxes will begin next year. Indexing adjusts the tax-bracket limits by using the Consumer Price Index (CPI), which measures changes in the price of goods and services. Under this system, income-tax brackets will expand when the CPI is greater than 3 percent per year. For example, if the CPI stands at 8.2 percent per year, the range between tax brackets will automatically be widened by 5.2 percent. Thus, the first bracket for a joint return would stretch from 0-$4,000 to 0-$4,208. The 3 percent figure (above which brackets are indexed) represents what the state believes it is entitled to receive as reflecting real increase in personal income. But the personal credit, low income credit and the standard deduction will be indexed by the full increase in the CPI.

• ***Withholding.*** Even the method of income-tax collection works against those who earn a salary during inflationary times. Withholding was instituted as a collection device during the Reagan Administration, when internal borrowing capacities to fund state government became drastically strained between annual tax payments. California collects revenue from low-to-middle-income groups this way, since their incomes are almost totally derived from salaries. In 1971, withholding alone accounted for an additional $90 million in revenue because it recorded instant changes in state economic growth and collected previously unclaimed money from those who left the state before end-of-year tax time.

The longer tax payments are deferred during inflationary periods, the less the tax loss affects the taxpayer. Since withholding collects the tax automatically, financial changes are immediately assessed, and this hurts the salaried worker more than someone who can delay paying taxes. Wealthier persons can often postpone their personal income tax because they take advantage of a more complicated collection system, designed for more diverse sources of income.

Outperforming the country

Thus, it is clear that California has profited tremendously from inflation's effect on the personal income-tax system. To many people, the state's multi-billion-dollar surplus simply represents outrageous over-collection from its citizens. But blaming the build-up solely on excessive taxation is an oversimplification. There is no way of knowing how much of the surplus is due to inflation and how much is due to legitimate economic growth. Legislative Analyst William Hamm believes that California would have had a surplus this year even without inflation's effects.

"The California economy outperformed the national economy in a way that nobody anticipated," Hamm says. With the state's rate of economic growth, there probably would have been a surplus even with a stable cost of living, he says. Nevertheless, the double-whammy of inflation and a progressive income tax has been great: Hamm cites an economic indicator called "the elasticity index," which measures how much tax revenue will be generated for the state by a rise in personal income. The figure now stands at 1.7, which means that a 10 percent increase in salary will cause a 17 percent increase in income tax. Such a ratio "gives a great deal of elasticity to the generation of revenue," Hamm admits.

The other side of the coin

Revenue collection is only one side of the coin; the other is state spending. The surplus is, after all, a function of revenue and spending: too much of one and too little of the other produces a monetary reserve. While California has been collecting vast amounts of money, spending has not been as great as it could have been, despite the steady annual rise in the state budget. The current Brown Administration has been relatively frugal in the face of mounting revenue, so much of the responsibility for the state surplus has been assigned to the Governor's office. Republicans in the Legislature have criticized Governor Brown for tacitly allowing the state to collect excess taxes. They say he had every opportunity to lower the personal income tax — yet, until this year, he did nothing. Liberals also have criticized Brown's handling of the surplus: They say it should have been used to upgrade the state's social programs.

Sharing the criticism with Governor Brown has been the Department of Finance, in effect an arm of the governor's office, which is responsible for preparing the state budget. Finance officials have been blamed for failing to forecast accurately the state's economic future and to predict the amount of each year's surplus. Now that the surplus has become a political football, the annual estimating game is being played for very high stakes. When Department of Finance Director Roy Bell announced this summer that California could have a surplus exceeding $4.5 billion by next year, many legislators were outraged. When other officials announced that the surplus could possibly exceed that amount, some charged that the Governor and the Finance Department had deliberately underestimated the surplus throughout the year in order to soften its impact upon voters. Members of the Department of Finance and other budget specialists fervently deny that any deliberate distor-

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tion is involved in surplus projections. But predicting the state surplus is an inexact science at best. Economic conditions are almost impossible to predict accurately beyond several months. Says William Hamm, "Anyone who could do it (predict the economy) with any great accuracy would be very rich and probably be off living on his own island somewhere. He certainly wouldn't be around telling anyone else how to do it."

The political variables

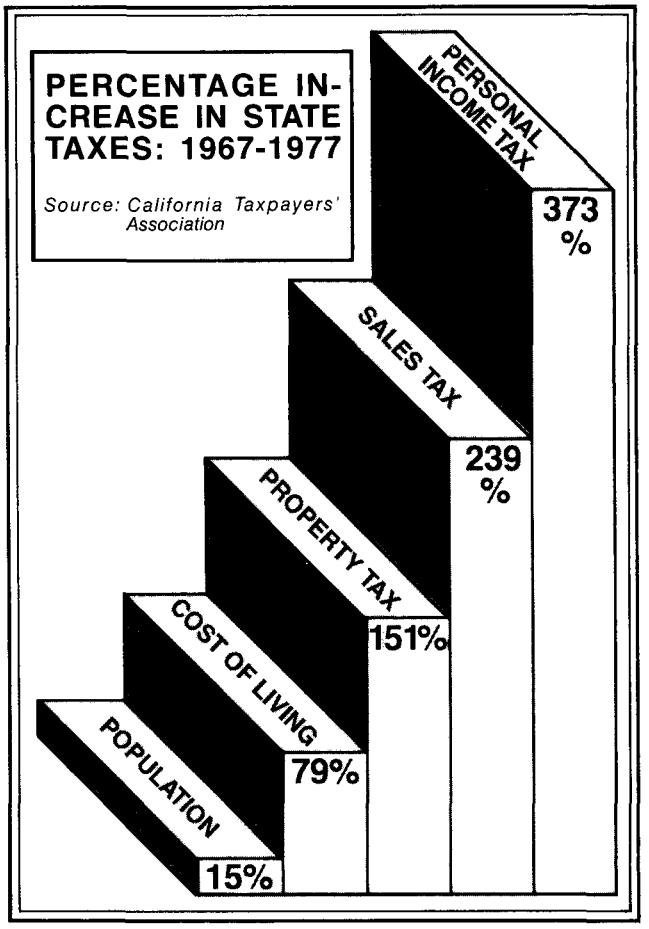
And economic projections inevitably must deal with political variables: No one knows what a governor will propose in a future budget or bill, or how the Legislature will respond. A classic example is this year's tax-cut gamesmanship. Brown's sudden endorsement of indexing, after a long record of opposition, caught fellow Democrats and his own Department of Finance staff by surprise.

Finance officials have traditionally argued in committee hearings against any Republican indexing plan, so the Governor's sudden turnaround created dismay among them. One Finance Department staffer asked for understanding: "I think — or at least I hope — people understand the political facts of life. I work for the Governor; so now I support indexing."

But some legislators didn't understand. Finance's heavy involvement in surplus estimating and its forced flip-flop on indexing has brought more than the usual amount of criticism down upon the department. Democrat Assemblyman Larry Kapiloff of San Diego, chosen to carry the tax-cut package, charged that Finance officials "are either liars or incompetent" because, he said, they failed to provide adequate information to the Assembly Revenue and Taxation Committee.

And others didn't particularly like the indexing plan, even though they voted for it. Liberals have consistently pushed for additional brackets at the top of the income ladder, to collect more from the richest taxpayers and provide a "self-funding" reform by redistributing the extra money in tax relief for the poor.

Other critics say indexing is a conscious submission to perpetual inflation, when government's energies instead should be spent fighting inflation. The Franchise Tax Board and the Department of Finance, in previously opposing indexing, always maintained that the Legislature had the power to adjust tax rates any time it wanted to.



Opponents of indexing also say it's unwise to reduce the surplus too much when Proposition 13 has made state bailouts so vital to local governments. As a result of the indexing plan, the state is expected to lose about $3.6 billion over the next five years that it otherwise would collect. If the state should suffer an economic downturn during the same period, it could find itself pressed for revenue.

In effect, critics are asking if the goose that's laying those golden eggs shouldn't be left alone until the long-range effects of Proposition 13 are better understood.

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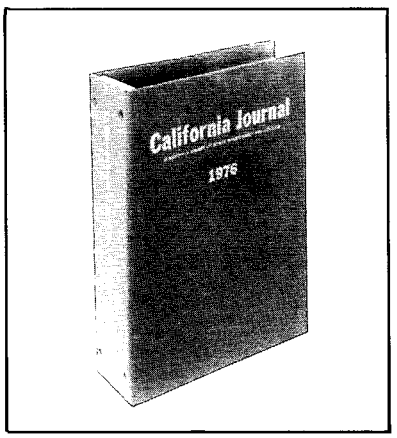

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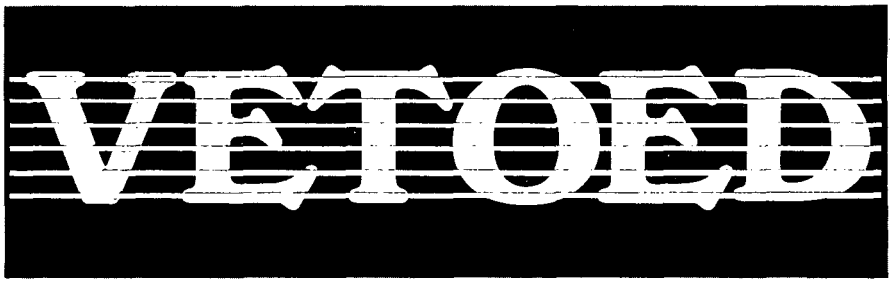
Fewer Brown vetoes; other than Prop. 13, few heavyweight bills

Did Governor Brown turn into a marshmallow during the 1978 legislative session? Was he reluctant to veto bills this year for fear that the supporters might turn against him at the ballot box? Veto statistics would indicate that the answers to these questions are in the affirmative. Brown's veto production was much lower in 1978 than in his three previous years as California's chief executive.

But the real explanation is more elementary than that. Although the Legislature's bill enactment total remained fairly steady, there were few meaty or controversial measures sent to the Governor's desk. Proposition 13 took care of most bills costing a great deal of money (always candidates for veto treatment), and the Legislature didn't send Brown the usual flood of proposals providing additional benefits for public employees (also prime candidates for veto). In short, it was a mighty skimpy year. Few bills of any great import were passed except for those implementing Proposition 13 and reducing the state's massive surplus through income-tax reductions.

In 1978, Brown vetoed 84 bills — six percent of the 1,454 measures sent to his desk. That compares with 124 in 1977, 184 in 1976 and 148 in 1975. In previous years, Brown had said no to 10 percent of the bills sent to his desk. And this year quite a few of the vetoes were for technical reasons and with the consent of the author. The usual cries of anguish that come at the bill-signing deadline, when most of the vetoes are announced, failed to materialize from legislators this year.



Here is a sample of bills vetoed by Governor Brown this year and the reasons he gave for refusing to sign them into law:

Masks. *SB 1747–Sieroty.* Eliminates the prohibition against wearing a mask or other paraphernalia in public to conceal one's identity.

In view of recent events I believe this is not the year to strip away penalties for wearing masks in public.

Cable television. *SB 1757–Alquist.* Requires local government to decide the fate of cable television franchises within 120 days.

This bill unreasonably diminishes the authority of local government without compensating public benefit.

Health council. *SB 1882–Gregorio.* Abolishes the Advisory Health Council, transferring certain of its functions to a new 24-member Health Coordinating Council.

This bill would unduly restrict the appointment authority of the Chief Executive.

Relocation funds. *SB 2064–Petris.* Authorizes use of state funds to help local agencies relocate low-income families who are displaced.

Given the limitations of Prop. 13, I believe we should not undertake a new grant program of this type.

Raw milk. *SB 2214–Campbell.* Makes the county, not the state, responsible for supervising the production of certified raw milk.

As a drinker of raw milk, I am sympathetic to those who produce it. This bill, however, goes too far and was changed at the last minute in an unacceptable way.

Drug education. *SB 934–Presley.* Requires minor found guilty of driving under the influence of drugs or alcohol to participate in a drug rehabilitation or education program.

I believe the decision to order a juvenile offender to participate in a . . . program is best left to the sound discretion of juvenile court judges.

School administrators. *AB 2433-Bannai.* Alters the procedures for the transfer of a school administrator to a teaching position.

Existing provisions . . . appear to be adequate. This bill adds a costly evaluation to the process.

Tax preparers. *SB 686–Foran.* Requires applicants for registration as tax preparers to meet certain basic requirements.

Those who would erect new educational barriers to work in this society carry a very heavy burden of proof. The notion that the average citizen needs a more tightly regulated professional with enhanced social status to fill out his income tax is unacceptable. We should be moving in the opposite direction by simplifying the tax code and increasing the autonomy and ability of ordinary people to manage their own affairs.

National Guard. *SB 1675–Nimmo.* Provides that service in the regular or reserve United States armed forces may not be counted toward eligibility for appointment as adjutant general of the California National Guard.

This bill would prevent well-qualified active-duty officers from being considered for appointment as adjutant general.

PUC hearings. *AB 162–Duffy.* Specifies procedures for conduct of hearings by the Public Utilities Commission.

This bill would add unneeded expense and delay to a decision-making process which is already open, efficient and subject to judicial review.

Jury duty. *AB 1073–Ellis.* Exempts some

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public officials from jury service.

Jury reform should ease the burden for all citizens called to serve, not grant special privileges to a select few.

Teacher credentials. *SB 1416–Gregorio.* Changes membership of the Commission for Teacher Preparation and Licensing.

I cannot support the particular formula set forth in this bill because it unduly restricts the participation of K-12 classroom teachers.

Kern salaries. *AB 2261–William Thomas.* Increases salaries for court reporters in Kern County.

In this post 13 period, the salary increases set forth in this bill are inappropriate and must be deferred.

Parental consent. *AB 2399–Imbrecht.* Allows minors to obtain mental-health treatment without parental consent under some circumstances.

Simply put, this bill erodes the authority of parents by granting to professionals the power, without parental consent or knowledge, to treat children for alleged mental disorders.

Property taxes. *AB 2704–Levine.* Requires real estate sales persons to disclose tax liability on a property before offering a single-family home for sale.

I believe the disclosure required by this bill would add more red tape to real estate transactions without providing a clear benefit to the purchaser.

Moving firms. *AB 3317–Ingalls.* Requires that anyone advertising as a household goods carrier obtain a permit.

This bill would unreasonably extend the regulatory arm of government to the detriment of the very small entrepreneur.

Portable classrooms. *AB 3511–Greene.* Appropriates $15 million for purchase of portable classrooms, which would be distributed to school districts.

I would prefer a program which required a greater utilization of school-district resources and did not place the state in direct competition with private enterprise.

Highway construction. *SB 1337–Alquist.* Requires the Department of Transporation to spend available construction funds.

This bill would unnecessarily complicate administrative procedures for the Department of Transportation.

Smog boards. *AB 3092–Lewis.* Requires Air Resources Board to hold hearings before changing local-board policies.

This bill would mandate procedural red tape without commensurate public benefit.

Executive salaries. *AB 2276–Vicencia.* Amends law governing the Committee on Executive Salaries, which has never been active since its creation nine years ago.

Minor restructuring of a governmental body that has never functioned appears to serve little useful purpose. Instead, consideration should be given to abolishing the committee.

SIGNED

What follows is a selection of bills either signed into law by Governor Brown or, in a few cases, allowed to become law without his signature. Most of the new laws will become effective January 1st, 1979. The exceptions are urgency measures, appropriations and legislation carrying specific effective dates.

CRIME

Youngster. *AB 2075–Boatwright.* Repeals law presuming that a person under 14 is incapable of committing a rape. **Rape penalties.** *SB 1479–Deukmejian.* Prohibits granting of probation to anyone convicted of rape. (Several other bills amending the rape laws were also enacted in 1978.) **Probation subsidy.** *AB 90–Dixon.* Eliminates element of probation-subsidy program encouraging early release of dangerous felons. **Violent crimes.** *SB 709–Presley.* Increases prison sentences for 40 crimes of violence. **Angel Dust.** *AB 2806–Maxine Waters.* Regulates use, manufacture and sale of Phencyclidine Hydrochloride, also known as PCP and Angel Dust. **Trespass.** *AB 2420–Imbrecht.* Makes it a misdemeanor to fail to leave the property of another after being requested to do so by the owner. **Auto theft.** *AB 3487– Antonovich.* Denies probation to persons convicted of vehicle theft unless the owner is reimbursed for losses or provisions for restitution are made.

EDUCATION

School elections. *AB 2224–Young.* Changes election dates for school board members to the first Tuesday after the first Monday in November during odd-numbered years. **Special elections.** *SB 1311–Dunlap.* Requires special elections in some counties on the questions of whether the county superintendent of schools should be elected or appointed. **Education commission.** *AB 3075–Lanterman.* Reduces membership of the Postsecondary Education Commission from 23 to 15. **Community Colleges.** *AB 2158–Thomas.* Appropriates $5 million to help community college districts complete construction projects.

EMPLOYMENT

Collective bargaining. *AB 1091–Berman.* Extends collective bargaining rights to employees of the University of California and the State University system. **Pregnancy.** *AB 1960–Berman.* Makes it unlawful for an employer to discriminate against employee because of pregnancy or childbirth. **Fair employment.** *AB 1915–Dixon.* Revises the duties and responsibilities of the Division of Fair Employment Practices. **Retirement.** *SB130–Deukmejian.* Changes the maximum retirement age for state and local government employees to 70 and provides the right to continue work beyond that age upon certification of competence. **Unemployment.** *AB 644–McAlister.* Extends unemployment insurance coverage to state and local government employees, some domestic employees and employees of private schools.

ENERGY AND ENVIRONMENT

Wind. *AB 2976–Mello.* Requires the Energy Commission to implement a wind-energy program. **Utilities.** *AB 2984–Bates.* Prohibits public utilities from controlling a solar energy system without Public Utilities Commission authorization. **Solar energy.** *AB 3250–Levine.* Makes it state policy to encourage use of solar energy, and

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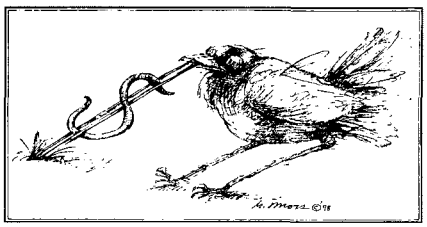
prohibits local government from restricting use of solar power. *AB 3324–Wornum.* Requires Energy Commission to develop a plan for maximum feasible use of solar energy. **Pesticides.** *AB 3765–Fazio.* Allows farmers to continue to apply pesticides without first preparing environmental impact reports. **Reclaimed water** *SB 1953-Cusanovich.* Explicity authorizes municipal water districts to sell reclaimed and waste water. **Water meters.** *AB 2970–Gualco.* Limits freedom of the Public Utilities Commission to order the installation of residential water meters.

FINANCE

Proposition 13. *SB 154–Rodda.* Appropriates $4.1 billion for post-Proposition 13 aid to local government and establishes $900 million loan fund. *SB 2212–Gregorio.* Provides clean-up provisions for SB 154. **Tax cut.** *AB 3802–Kapiloff.* Gives Californians $1 billion in income-tax relief from the state surplus. **Cal-Vet bonds.** *AB 340–Fenton.* Places a $500 million Cal-Vet bond issue on the general-election ballot. **Taxes.** *SB 1–Behr.* Would have provided $1.4 billion in property tax relief had Proposition 8 in June been approved by the voters instead of Proposition 13. **Assessment ratio.** *AB 1656–Sieroty.* Replaces the current 25-percent assessment ratio for property tax purposes to 100 percent of value. **National Guard.** *AB 2600–Vicencia.* Authorizes the issuance of $100 million in revenue bonds for a home-purchase program for members of the California National Guard. **Israeli bonds.** *AB 2099–Bane.* Allows banks and savings and loan institutions to use Israeli bonds as security for state funds. **Inventory tax.** *AB 7X–Lockyer.* Would have repealed the property tax on business inventories over a five-year period had Proposition 13 not been enacted.



HEALTH AND WELFARE

Acupuncture. *AB 2424–Keysor.* Authorizes acupuncture treatments under Medi-Cal. **Dying.** *AB 1586–Hart.* Requires the state Department of Health to establish pilot hospitals for the dying (hospices). **Free clinics.** *AB 2902–Rosenthal.* Authorizes a grant program for community health projects and free clinics. **Chemical hazards.** *AB 3413–Kapiloff.* Establishes a repository for information on chemical hazards. **Child abuse.** *AB 2491 – Antonovich.* Provides for the training of medical, school and police personnel in the detection, prevention and treatment of child abuse and neglect. **Drug dependency.** *AB 3052 – Bates.* Appropriates $3 million for residential treatment programs designed to minimize drug dependency. **Mental care.** *AB 2481 – Torres.* Appropriates $19 million to improve the quality of patient care at the state's 11 mental hospitals. **Patient deaths.** *SB 23 – Robbins.* Changes the law with regard to patient deaths in state mental hospitals; requires state review of investigations by coroners. **Smoking.** *AB 1222 – Vasconcellos.* Prohibits smoking in retail food production or marketing establishments. **Search.** *SB 1437 – Dennis Carpenter.* Allows police to search a dead person for a card indicating that the person is an anatomical donor. **Elderly.** *AB 2650 – Lanterman.* Establishes special category of community-care facility to be known as residential facility for the elderly.

JUDICIAL SYSTEM

Mandatory arbitration. *SB 1362 – Smith.* Requires arbitration of civil actions involving $15,000 or less in major counties. **Traffic violations.** *AB 1068 – Fazio.* Provides for administrative adjudication of traffic infractions on a five-year trial basis in three counties. **Small claims.** *AB 2578 – Torres.* Increases jurisdiction of the small claims court from $750 to $1,500 in six courts on a trial basis. **Jury service.** *AB 3273 – Gage.* Limits jury service to 10 days a year. **Newsroom searches.** *AB 512 – Goggin.* Prohibits use of search warrants by police to conduct searches of newsrooms. **Civil cases.** *AB 2192 – Chel.* Increases the jurisdiction of municipal courts in civil cases from $5,000 to $15,000.
Divorce. *AB 539 – Maddy.* Provides for a new streamlined divorce procedure for those married a short time and where there are no children and limited property and debts.

OSHA penalties. *AB 2441 – Chel.* Prohibits assessment of a civil penalty against an employer for a first-offense violation of safety and health (OSHA) laws. **Drinkers.** *SB 1645 – Ayala.* Protects bartenders and social hosts from liability to third parties injured by their customers or guests. **Dentists.** *SB 1494 – Zenovich.* Grants limited immunity to dentists from damages caused in emergency situations.

TRANSPORTATION

Speed limit. *AB 2262 – Ingalls.* Extends indefinitely the 55-mile-per-hour speed limit. **Auto lanes.** *SB 1738 – Mills.* Requires that all high-occupancy vehicle lanes be constructed so that they can be easily reconstructed as exclusive mass-transit guideways. **Transportation links.** *SB 1750 – Mills.* Appropriates $6 million for construction of transportation projects to improve connections between various modes of transportation.

MISCELLANEOUS

Boundary line. *SB 2180 – Johnson.* Provides that the state's eastern boundary shall be that set by the United States in 1872. **Beer.** *AB 2797 – Bates.* Allows persons over 21 to manufacture beer for personal or family use. **Emergency telephone.** *SB 1457 – Holmdahl.* Delays implementation of law requiring installation of the 911 emergency telephone system from the end of 1984 to the end of 1985. **Mail elections.** *SB 1609 – Stull.* Permits certain water districts to conduct bond elections by mail. **Absentee ballots.** *AB 1699 – Lehman.* Allows any registered voter to obtain an absentee ballot, not just those unable to appear at the polling place.

Health foods. *SB 1790 – Campbell.* Allows operators of health-food stores to give nutritional advice without fear of being prosecuted for the illegal practice of medicine. **Land sale.** *SB 1721 – Marks.* Permits the state to sell land to local government at below market value for low-income housing. **Directory assistance.** *AB 43 – Robinson.* Prohibits the Public Utilities Commission from placing a charge on directory-assistance calls, up to 20 per month per subscriber. **Dogs and cats.** *SB 1481 – Song.* Prohibits use of decompression chambers for the killing of dogs and cats. **Cruelty to animals.** *SB 490 – Roberti.* Prohibits showing of a motion picture showing intentional killing of or cruelty to a human being or an animal. **Lanterman State Hospital.** *AB 2896 – Arnett.* Changes the name of Pacific State Hospital to Frank D. Lanterman State Hospital, in honor of the assemblyman retiring this year. **Auto insurance.** *AB 3596 – Torres.* Requires auto insurers to maintain loss statistics by zip-code area. **Non-profit corporations.** *AB 2180 – Knox.* Enacts new laws covering non-profit, religious and charitable organizations.

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A tale of two senators

By Leo Rennert

Among the most fascinating moments in politics are those when an elected official suddenly takes a sharp new policy turn to the utter astonishment of his most loyal supporters. The turnabout usually elicits cries of betrayal and harsh retribution threats. The wayward officeholder quickly tries to repair the damage by explaining that consistency is not a golden virtue, that times have changed or that the apparent flip-flop is just a fiction fabricated by a sensation-minded press. A few politicians, like Jerry Brown, find the experience exhilarating because it gives them a chance to demonstrate their virtuosity in cracking old molds and zipping across the political map. But most prefer to cover their tracks and quickly revert to safe, familiar positions.

AS THE 95TH CONGRESS heads for the history books, a backyard glance shows California's two senators exhibited some of these symptoms when they strayed at several significant points from their own orthodox paths. Republican S. I. Hayakawa shocked conservatives by voting for the Panama Canal treaties and for public funding of abortions for poor women. Democrat Alan Cranston infuriated liberals when he supported gradual deregulation of natural-gas prices and joined a GOP-led move to slash capital-gains taxes that President Carter said would provide "huge windfalls for millionaires and two bits for the average American."

Each senator, however, dealt quite differently with the resulting political squalls. Hayakawa, whose term still has another four years to go, shrugged off the protests. With an otherwise staunch conservative voting record, he apparently has no reason to worry about any serious revolt in the ranks. Cranston could be on more difficult ground. He's up for re-election in 1980. William Bennett, a member of the State Board of Equalization who has made a career of tilting lances at the oil industry, was so enraged by Cranston's vote for the gas bill that he announced his candidacy for the 1980 Democratic primary. By itself, Bennett's challenge may not be a serious threat. But it could intensify Republican interest in Cranston's seat and lead to the grooming of a more potent GOP opponent than Cranston has been used to. It's an emerging problem, and Cranston is not ignoring it.

Hayakawa clearly enjoyed the fuss about the Panama Canal. During the 1976 campaign, he delighted audiences by remarking that the United States ought to keep the canal because "we stole it fair and square." Conservatives interpreted the remark as putting him in the same hard-line camp as Ronald Reagan. But Hayakawa, who still seethes about the treatment Orientals and other non-Anglos received during the heyday of the American frontier, was not about to enlist in a latter-day version of Teddy Roosevelt's Rough Riders. As for his famous campaign statement, he smilingly explained that was just "a jest, a wisecrack" — a phrase couched in "deliberate ambiguity." It's not too often that a politician publicly boasts about bamboozling the voters.

Despite all the shouting at the time, Panama is now all but forgotten. That's not so with the abortion issue, which could hound Hayakawa for the rest of his term. To mitigate the damage, he has dug into his semantic fix-it bag and developed an explanation tailored to the anti-government bias of conservatives. Government should not be permitted to dictate whether a woman should or shouldn't have an abortion, he argues, but the only way to guarantee this free, unimpeded choice to a poor woman is for government to provide the necessary funds. Militant pro-lifers won't fall for this rationale, but it may pacify some conservatives.

On environmental and economic policy, where his pro-development and free-enterprise tendencies are normally quite predictable, Hayakawa also managed to cast a few surprising votes. He pushed for expansion of the endangered-species protection program to include threatened plants — a position apparently suggested by his wife, a noted horticulturist who edits the magazine of the California Native Plants Society. And he broke with most conservative senators and business groups by giving his full support to creation of a national bank to provide government financing to consumer cooperatives. Mrs. Hayakawa, it turns out, also is a former president of a Chicago co-op and for several years served on the board of directors of the Berkeley Co-op. But there also was another reason. Hayakawa told the Senate that right after World War II there was considerable debate in California about whether to encourage Japanese-Americans to return to the state from their relocation camps. The first California business organization to set an example and hire a significant number of Japanese-Americans at that crucial moment, he recalled, was the Berkeley Co-op.

IF HAYAKAWA GOT ANY FLACK for all of this from the right, it was nothing compared with the far stronger denunciation of Cranston by activists on the left. When Cranston embraced the gas-deregulation bill, Tom Hayden sent him a telegram expressing shock "at your flip-flop" and blasting the bill as anti-consumer and a windfall for the oil industry. This was the same charge Hayden has leveled in his 1976 primary fight against former Democratic Senator John Tunney, who then lost to Hayakawa. Whether Bennett's candidacy will pose the same threat to Cranston remains to be seen. Cranston prides himself on having far more solid ties to California liberals than Tunney did. He also dismisses the flap over the gas bill as a political "non-issue" in the state. But just in case there might be something to this new thunder from the left, Cranston has just mailed more than 800,000 newsletters depicting the gas bill as an environmental and economic boon to California. The newsletter also denies that Cranston's support for chopping capital-gains taxes represents a switch to Republican "trickle-down" economics. What is at stake, it asserts, is the need to encourage more private investment to create more jobs.

To Bennett, the issue goes much deeper. He puts Carter, Brown and Cranston in the same boat as Democratic leaders who are moving to the right and casting the party adrift from its historic liberal moorings. Bennett is betting there are still plenty of old-fashioned liberals around to threaten a backlash of major proportions. Cranston is betting that he is wrong.

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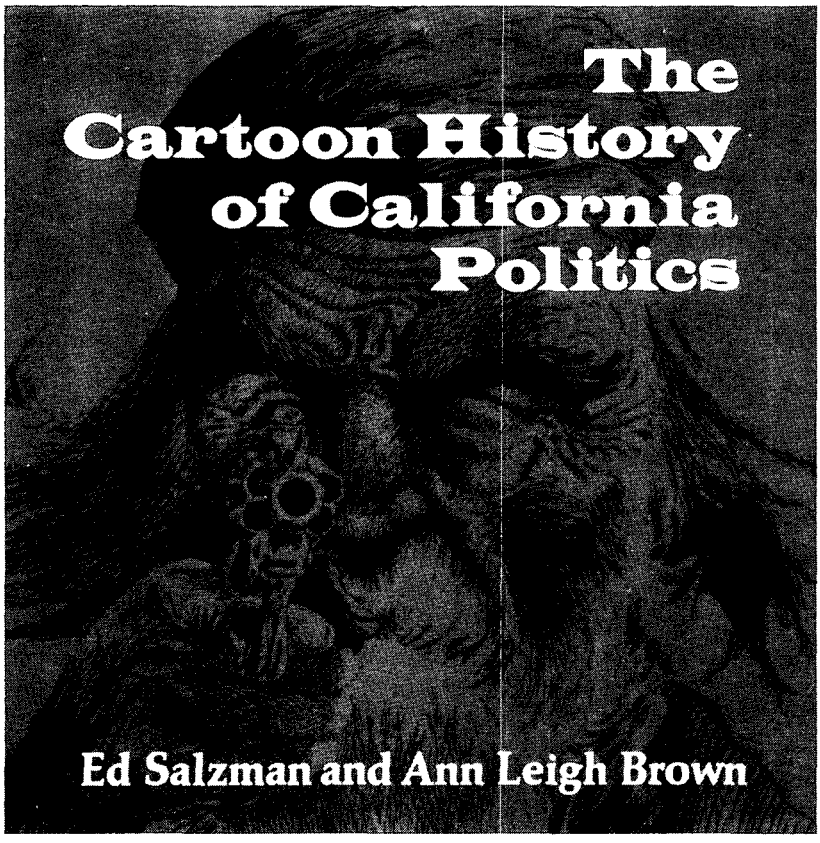

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